



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 17.03.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD)No.795 of 2025

and

C.M.P(MD)No.4347 of 2025

N.Sampathkumar

...Petitioner/Claimant Petitioner/
3rd Party/3rd Party

Vs.

1.R.Rengasamy

...1st Respondent/1st Respondent/
Petitioner/Plaintiff

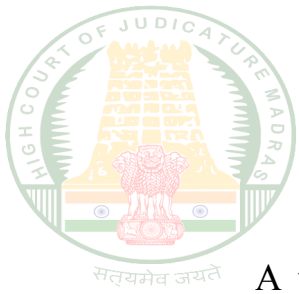
2.N.Natarajan

...2nd Respondent/2nd Respondent/
Respondent/Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the records and set aside the fair and decreetal order dated 06.11.2024 in E.A.No.04 of 2023 in E.A.No.03 of 2022 in E.P.No.383 of 2018 in O.S.No.447 of 2016, on the file of the Principal Sub Court, Dindigul District, and allow this Civil Revision Petition.

For Petitioner : Mr.H.Lakshmi Shankar

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ORDER

A third party to O.S.No.447 of 2016, on the file of the Principal Sub Court, Dindigul, has filed the present revision petition, wherein his request for amendment of his claim petition filed under Order 21 Rule 99 has been dismissed.

2.The first respondent herein as plaintiff had filed the above said suit for the relief of specific performance. The suit was decreed and the decree holder has filed E.P.No.383 of 2018, for taking delivery of the property. At that stage, the sons of the defendant had filed E.A.No.3 of 2022.

3.The claim petitioner claims that he is having 1/2 shares in the suit schedule properties on the basis of registered partition deed of the year 2006. When this application was pending, the claim petitioner has filed E.A.No.4 of 2023, seeking amendment of the claim petition to incorporate the prayer for partition and to declare that the judgment and decree in O.S.No.447 of 2006 is null and void. This amendment application has been dismissed. Challenging the same, the present revision petition has been filed.

4.According to the learned Counsel appearing for the revision petitioner, an application under Order 21 Rule 99 has to be treated as suit. In such circumstances, when ultimately, if the Court arrives at a finding that the claim



petitioner is one of the co-owners with the defendant, it would be appropriate to pass a preliminary decree for partition and therefore, the claim petitioner has filed such an amendment application to incorporate the prayer for partition. He further contended that when the claim petition is pending, a suit would be bad in view of the provisions of C.P.C.

5.I have considered the submissions made on either side and perused the materials available on record.

6.According to the revision petitioner, he is having $\frac{1}{2}$ share in the suit schedule properties and therefore, his father should not have executed the sale agreement in favour of the plaintiff for the whole of the property. The main object of Section under Order 21 Rule 99, is to protect the possession of the person on the basis of his right to be in possession. However, no consequential orders can be passed. In such circumstances, this Court is of the considered opinion that the amendment application to amend the claim petition including the prayer for partition is not sustainable.

7.In case, if the Court arrives at a finding that the revision petitioner is having $\frac{1}{2}$ share over the suit schedule properties, it is always be open to the revision petitioner to file a suit for partition.



8. With the above said observations, this Civil Revision Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

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17.03.2025

Internet: Yes/No
Index: Yes/No
RJR

To

The learned Principal Sub Judge, Dindigul District.

Copy to:-

The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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R.VIJAYAKUMAR, J.

RJR

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