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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2025

CORAM

THE HON'BLE MR. JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD)Nos.1270 & 1271 of 2025

and

C.M.P(MD)No.6678 of 2025

C.R.P.(NPD)(MD)No.1270 of 2025

Selvarasu (Died)

1.Ramamirtham

2.Mohandoss

3.Girubalini

...Petitioners/Respondents/Respondents/
LRs of Plaintiffs

Vs

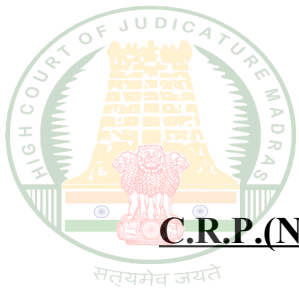
Jeyalakshmi

....Respondent/Petitioner/Petitioner/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 passed in I.A.No.1108 of 2023 in I.A.No.363 of 2016 in O.S.No.62 of 1989, on the file of Sub Court at Pattukottai, Dated 10-02-2024.

For Petitioners : Mr.K.Vijayaraghavan

* * * * *



C.R.P.(NPD)(MD)No.1271 of 2025

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Selvarasu (Died)

1.Ramamirtham
2.Mohandoss
3.Girubalini

...Petitioners/Petitioners/Respondents/
LR's of Plaintiffs

Vs

Jeyalakshmi

....Respondent/Respondent/Petitioner/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 passed in I.A.No.236 of 2024 in I.A.No.1108 of 2023 in O.S.No.62 of 1989, on the file of Sub Court at Pattukottai, Dated 03.07.2024.

For Petitioners : Mr.K.Vijayaraghavan

COMMON ORDER

The decree holders in O.S.No.62 of 1989, on the file of the Sub Court, Pattukottai, have filed these revision petitions challenging the orders passed in I.A.No.1108 of 2023 and I.A.No.236 of 2024.

2.A perusal of the records reveal that the suit has been filed for the relief of partition and preliminary decree came to be passed on 17.06.2009, and the decree holder has filed I.A.No.363 of 2016, for passing of final decree and the



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same is pending. The sister of the decree holder has filed I.A.No.1108 of 2023, to re-allocate the shares in consonance with the Hindu Succession (Amendment) Act, 39 of 2005 and for re-issuance of warrant directing the Advocate Commissioner to divide the petitioner's 1/2 share in the suit schedule property as per the Hindu Succession (Amendment) Act, 39 of 2005. This application came to be allowed by the trial Court. The decree holder have filed I.A.No.236 of 2024 to re-open I.A.No.1108 of 2023, for the purpose of receiving their counter. The trial Court has dismissed I.A.No.236 of 2024. Challenging these two orders, the present revision petition has been filed.

3.According to the learned Counsel appearing for the revision petitioners, without receiving the counter in I.A.No.1108 of 2023, the said application was allowed and therefore, the trial Court ought to have considered I.A.No.236 of 2024.

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

5.Before passing of final decree, the sister of the plaintiff has filed an application for re-allocation of the shares in accordance with the Hindu Succession (Amendment) Act, 39 of 2005.



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6.The Hon'ble Supreme Court in a judgment reported in **2011 (6) SCC 468**, has held that till passing of final decree, shares can be re-allocated on the basis of the Hindu Succession (Amendment) Act, 39 of 2005. Therefore, this Court does not find any illegality in allowing I.A.No.1108 of 2023. Hence, there are no merits in I.A.No.236 of 2024 also.

7.With the above said observations, both the Civil Revision Petitions stand dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

22.04.2025

Internet:Yes/No
Index:Yes/No
RJR



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R.VIJAYAKUMAR, J.

RJR

To

The learned Sub Judge,
Pattukottai.

Copy to:-

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

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