



C.R..P.(PD)(MD).Nos.947 to 949 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)Nos.947 to 949 of 2025

and

C.M.P(MD) Nos.5041, 5043 and 5044 of 2025

In all petitions:

1. Nagajothi Ammal
2. Subbulakshmi Ammal
3. Mariammal

... Petitioners/
Respondents 1 to 3/
Plaintiffs

Vs.

1. Mallika
2. Shanthi
3. Shanmugapriya
4. Karthicka

... Respondents 1 to 4/
Petitioners/
Defendants 2 and 4 to 6

5. Vijayakumar

... 5th Respondent/
4th Respondent/
3rd Defendant

6. P.Ganesan
7. T.Ganesan

... Respondents 6 and 7/
Respondents 5 and 6/
Defendants 7 and 8



C.R..P.(PD)(MD).Nos.947 to 949 of 2025

COMMON PRAYER: Civil Revision Petitions are filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 02.12.2024, made in I.A.Nos.5, 6 and 8 of 2024 in O.S.No.5 of 2011, on the file of the Sub Court, Kovilpatti.

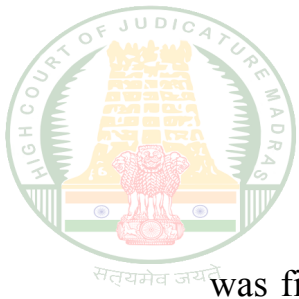
In all petitions:

For Petitioners : Mr.K.K.Senthil
For R1 : Mr.R.J.Karthik
For R6 and R7 : Mr.V.Sathurthi Raja
for Mr.S.Kadarkarai

COMMON ORDER

The plaintiffs in O.S.No.5 of 2011 on the file of the Sub Court, Kovilpatti, have filed these present Civil Revision petitions challenging in allowing of I.A.Nos.5, 6 and 8 of 2024 by the trial Court.

2. It could be seen from the records that the petitioners herein have filed the above said suit for the relief of partition and separate possession. When the suit was posted for arguments on the side of the defendants, the defendants had filed the above said applications. I.A.No.5 of 2024 was filed for reopening the evidence on the side of the defendants, I.A.No.6 of 2024



C.R..P.(PD)(MD).Nos.947 to 949 of 2025

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was filed to recall DW-1 and I.A.No.8 of 2024 was filed for reception of 35 documents as additional documents. These three applications have been allowed by the trial Court. Challenging the same, the present Civil Revision Petitions have been filed by the plaintiffs.

3. According to the learned counsel appearing for the revision petitioners, the suit schedule properties are the joint family properties and the plaintiffs and the defendants are co-sharers. The only defence taken by the defendant is that the original owner of the property has executed a Will, dated 03.12.2001, in his favour. Since D1 has passed away, D2 and D4 to D6 being the legal heirs of D1 are contesting the partition suit relying upon the Will.

4. According to the learned counsel appearing for the revision petitioners, when the suit is posted for arguments on the side of the defendants, the present applications have been filed. The documents they have shown in the list in I.A.No.8 of 2024 are all subsequent to the suit and they cannot be relied upon by the defendants. Further, some of the documents are prior to the suit and the defendants have not explained the reason for not filing these documents at the earlier point of time. Hence, he prayed for



C.R..P.(PD)(MD).Nos.947 to 949 of 2025

allowing these Civil Revision Petitions.

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5. Per contra, the learned counsel appearing for the defendants/ respondents has submitted that even in the original written statement, a plea has been taken that the defendants are in exclusive possession of the property and the plaintiffs cannot claim joint possession. He further pointed out that the valuation of the suit and payment of Court fee under Section 37 (2) of the Tamil Nadu Court Fee and Suit Valuation of the Act, is not correct. When such a plea has already been raised, the documents which are sought to be marked are only to show that the defendants are in exclusive possession of the suit schedule properties. He further contended that since there is no plea with regard to these documents, an application has been filed in I.A.No.12 of 2024 for reception of additional written statement. This application has been dismissed. Challenging the same, the defendants have filed C.R.P(MD) No. 422 of 2025.

6. Heard both sides and perused the material on records.



C.R..P.(PD)(MD).Nos.947 to 949 of 2025

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7. As far as the additional documents which are sought to be marked in I.A.No.8 of 2024 are concerned, there are already pleadings to the effect in the original written statement that the defendants are in an exclusive possession of the suit property and the claim of the plaintiffs that they are joint possession is wrong. Though there is a delay on the part of the defendants, the trial Court has proceeded to allow these applications. This Court does not find any reason to interfere in the said order, in view of the fact that already pleadings are there on record.

8. In view of the above said facts, the order passed by the trial Court in I.A.No.5 of 2024, 6 of 2024 and 8 of 2024 stands confirmed and the Civil Revision Petitions stand dismissed with a direction to complete the marking of these documents within a period of one week from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently connected Miscellaneous Petitions stand closed.

24.03.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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C.R..P.(PD)(MD).Nos.947 to 949 of 2025

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To

1. The Sub Court,
Kovilpatti.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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C.R..P.(PD)(MD).Nos.947 to 949 of 2025

R.VIJAYAKUMAR,J.

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C.R.P(PD)(MD)Nos.947 to 949 of 2025

24.03.2025