



C.M.P.(MD) No.10271 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

| Date of Reserving the Order | Date of Pronouncing the Order |
|-----------------------------|-------------------------------|
| 29.01.2025                  | 31.01.2025                    |

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN  
and  
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.M.P.(MD) No.10271 of 2024  
and  
A.S.(MD) No.208 of 2024

1.Alagumeena

2.Selvaraj

3.Premalatha

Ganesan

4.Murugeswari

... Petitioners/ Appellants

[3<sup>rd</sup> petitioner is declared as major and the guardianship of her father Gnaeshan is discharged vide order dated 21.06.2024 made in C.M.P(MD)No.7701 of 2024 in AS(MD)No.SR5915 of 2024]

[Cause title is amended vide order dated 11.07.2024 in C.M.P(MD)No.7699 of 2024 in AS(MD)No.SR5915 of 2024]

-VS-

1.Paulchamy



C.M.P.(MD) No.10271 of 2024

2.Rajendran

WEB COPY

3.Alagammal

... Respondents/Respondents

PRAYER : Petition filed under Order 41, Rule 5 and Section 151 of C.P.C., to pass an order of interim injunction restraining the respondents and their men or agents from alienate, encumber the suit properties of the Judgment and Decree dated 23.08.2023 in O.S.No.172 of 2014 on the file of the learned VI Additional District Judge, Madurai, pending disposal of the First Appeal.

For Petitioners : Mr.S.A.Ajmalkhan

For Respondents : Mr.K.Sathishkumar

### ORDER

RMT.TEEKAA RAMAN, J.

This Civil Miscellaneous Petition is filed to grant interim injunction restraining the respondents and their men or agents from alienate, encumber the suit properties of the Judgment and Decree dated 23.08.2023 in O.S.No.172 of 2014 on the file of the learned VI Additional District Judge, Madurai, pending disposal of the First Appeal.

2.The petitioners/appellants/plaintiffs filed a suit for partition. The plaintiffs 1, 2 and 4 are the daughters and son of the deceased original first defendant, namely, Alagan. The fourth plaintiff is the husband of the fifth plaintiff. When the first defendant was alive, the suit was filed by the legal heirs for partition in respect of

Item Nos 1 to 7 of the suit properties. After the death of the first defendant, the fourth



C.M.P.(MD) No.10271 of 2024

defendant was impleaded as one of the legal heirs of the deceased first defendant.

WEB COPY

3.The case of the petitioners/plaintiffs/appellants is that all the properties are ancestral properties and hence, they seek share in the suit property.

4.Per contra, the case of the respondents/defendants is that the suit properties are the self acquired property of the father of the defendants 1 to 3, by name, Chinnalagan, who had settled his self acquired property in favour of the defendants 2 and 3. Apart from that, some of the properties are not owned by either of the parties and the remaining properties were already settled by the grandfather of the plaintiffs by name, Chinnalagan, in favour of the defendants 2 and 3. Hence, the same cannot be called upon to question the same.

5.The relationship between the parties is admittedly. The deceased first defendant, who is the father of plaintiffs 1, 2 and 5, has not supported the case of the plaintiffs assumes significance. The deceased first defendant, during his lifetime, had relinquished his right in favour his brothers/defendants 2 and 3. On the above factual position, the trial Court has come to the conclusion that Ex.A6 and Ex.A8 were the sale deeds in the name of Chinnalagan, the grandfather of the plaintiffs 1, 2 and 5 and it has been settled in favour of some of the defendants long, long ago. Though the plaintiffs claimed there is a partition deed on 31.10.2002, no document has been produced and hence, non-suited the plaintiffs.



C.M.P.(MD) No.10271 of 2024

WEB COPY

6. We have perused Ex.A6, Ex.A8 and Ex.A9 and also taken note of Ex.B.2 and Ex.B6 and hence, we find that the plaintiffs have not made out any prima facie case that the suit properties are ancestral properties as claimed in the plaint and even the deceased first defendant, during his lifetime, has not supported the case of the plaintiffs and the defendants 2 to 4, who are the brothers of the first defendant. Further, the original owner Chinnalagan has settled the property in favour of the defendants 2 and 3 long, long ago and hence, there is no iota of evidence to show the existence of ancestral property and hence, the petitioners have not made out any prima facie case.

7. Accordingly, this Civil Miscellaneous Petition is dismissed.

Sd/-  
31/01/2025

/ TRUE COPY /

/03/2025  
Sub-Assistant Registrar  
( C.S. I / II / III / IV )  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

SJI  
TO  
THE VI ADDITIONAL DISTRICT JUDGE,  
MADURAI.



WEB COPY



**C.M.P.(MD) No.10271 of 2024**

ORDER

IN

C.M.P.(MD) No.10271 of 2024

and

A.S.(MD) No.208 of 2024

Date :31/01/2025

SA/GSV/SAR. /04.03.2025/5P/2C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.