



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED: 13.06.2025**

**CORAM**

**THE HON'BLE MR. JUSTICE M.DHANDAPANI**

**C.R.P.(MD)No.1222 of 2021**

**and**

**C.M.P.(MD)No.6990 of 2021**

1.Manimuthu  
2.Angusamy @ Thangasamy  
3.Murugan @ Murugesan  
4.Sangara Ammal

...Petitioners

Vs.

1.Maruthamuthu  
2.Mahalakshmi  
3.Balasubramani  
4.Shankar  
5.Jothimani

...Respondents

**PRAYER:** Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order dated 05.04.2021 in I.A.No.338 of 2020 in O.S.No.141 of 2013, on the file of the Subordinate Judge, Vedasunthur.

For Petitioners : Mr.R.Ramadurai

For Respondents : Mr.M.P.Senthil



## **ORDER**

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This petition has been filed seeking to set aside the order dated 05.04.2021 in I.A.No.338 of 2020 in O.S.No.141 of 2013, on the file of the Subordinate Judge, Veda sunthur.

2.Learned Counsel for the petitioners would submit that the petitioners are the plaintiffs in O.S.No.141 of 2013. The said suit was filed by the petitioners for partition and consequential relief and admittedly, on behalf of the petitioners, three witnesses were examined namely P.W.1 and P.W.3 and on behalf of the defendants, three witnesses were examined. After examination of the witnesses by both parties, the case was posted for trial. At the same time, the petitioners came to know that in their plaint, they specifically averred that the petitioner's brother Ganesan died long back and his wife Maruthayee received Rs.75,000/- towards her husband's share and also she got remarried to another person. Though such a plea was taken by the petitioners in the plaint and also agreed to produce evidence to that extent, However, inadvertently, the said Maruthayee was not examined as witness. Thereby, the petitioners filed a reopen petition to examine Maruthayee as P.W.4, before the trial Court. However, the said petition was dismissed on the premise that as if non-examination of Maruthayee was taken as a defence in the written statement and in order to fill up the lacuna, the petitioners have taken out a petition. Such a



finding is perverse. In fact, such a plea was taken before the trial Court and in order to substantiate the pleadings, the petitioners have to necessarily examine the said Maruthayee, for which no prejudice is caused to the respondents / defendants and without considering the same, the trial Court has dismissed the petition, which is unsustainable. Accordingly, learned Counsel prays for allowing this Civil Revision Petition.

3.Per contra, learned Counsel for the respondents would submit that the petitioners averred in the plaint with regard to the said Maruthayee, however, the petitioners' / plaintiffs' evidence were over by 05.11.2019 and the defendant witnesses was over by 01.02.2020 and the matter was posted for arguments on 20.11.2020. At the relevant point of time, such petition has been initiated just to drag on the proceedings and the trial Court has rightly dismissed the said petition.

4.Heard the learned Counsel on either side.

5.The facts in the present case are not in dispute. Admittedly, the petitioners filed a partition suit as against the respondents. In paragraph No.6 of the plaint, it is specifically pleaded that the petitioners and one Ganesan are the legal heirs of Sangapillai. The said Ganesan died. Thereafter, his wife Maruthayee received a sum of Rs.75,000/- as her husband's share and



relinquished her right. Though such statement was made in paragraph No.6 of the plaint, the said Maruthayee was not examined. It is neither willful nor wanton. It has only inadvertently happened. Therefore, the petitioners want to examine the said Maruthayee, before the trial Court as per the plaint pleadings. Since, no prejudice is caused to the respondents, the order of the trial Court is set aside. The trial Court is directed to examine the said Maruthayee as P.W.4 on the date fixed by the trial Court. The petitioner is directed to produce the said Maruthayee on the date fixed by the trial Court and on the same day, the chief and cross-examination shall be completed and the parties are directed to argue the case.

6. Accordingly, this Civil Revision Petition is allowed, with a cost of Rs. 2,000/-, payable by the petitioners to the respondents. Consequently, the connected miscellaneous petition is closed.

**13.06.2025**

Internet: Yes/No

Index: Yes/No

MR



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To

- 1.The Subordinate Judge,  
Vedasunthur.
- 2.The Section Officer,  
VR Section,  
Madurai Bench of Madras High Court,  
Madurai.



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M.DHANDAPANI, J.

MR

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