



CRP(MD). No.942 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 05/06/2025

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

**CRP (MD). No.942 of 2020
and CMP(MD) No.6138 of 2020**

1. R.Sethuramalingam(Died),

2. S.Karpagarani

... Petitioners/defendants

Vs

1. Mayilrani(Died),
W/o.Pandiyarajendran,D.No.256/3, West
Street, Krishnan Kovil(Opp),
Narasingapuram,A Vellodu, Dindigul
Taluk, Dindigul District..

2. Rengammal,,
W/o.Narayanasaminaidu,No.30, Azeez
Saibu Lane, Dindigul Town,Dindigul District..

3. Balasubramanian,,
S/o.Velusamy,D.No.90, Pillayarpalayam,
Dindigul Town,Dindigul District..

4. Latha,,
W/o.Balasubramanian,D.No.90,
Pillayarpalayam, Dindigul Town,
Dindigul District..



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5. Pandiayarajendran,,
H/o. Late Mayilrani, D.No.256/3,
West Street, Krishnankovil (Opp),
Narasingapuram, A.Vellodu,
Dindigul Taluk, Dindigul District..

6. Karthika,,
D/o.Late Mayilrani,
D.No.256/3, West Street, Krishnankovil (Opp),
Narasingapuram, A.Vellodu, Dindigul
Taluk, Dindigul District..

7. Mohankumar,,
S/o.Late Mayilrani, D.No.256/3, West
Street, Krishnankovil (Opp),
Narasingapuram, A.Vellodu, Dindigul
Taluk, Dindigul District.

... Respondents/
plaintiffs

(R5 to R7 were brought on record as LR's of the deceased 1st respondent vide order dated 03.10.2024 in CMP(MD) Nos.13572, 13573 and 13574 of 2024.)

PRAYER :-Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure against the order dated 19.11.2019 in OS No. 921/2019 on the file of the Sub Court, Dindigul.

For Petitioners : Mr.S.Sarvagan Prabhu
For Respondents : Mr.S.Ramesh for R1
No appearance for R3 to R5
Mr.T.Senthilkumar for R2



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ORDER

The civil revision petition is filed against the order dated 19.11.2019 in OS No.921/2019 on the file of the Sub Court, Dindigul.

2. The petitioners are the defendants in OS No.921/2019. The respondents/plaintiffs herein filed a suit for partition claiming 1/3rd share of the suit property against the petitioners/defendants herein in OS No. 395/2001. Subsequently there was a compromise arrived at between the family members, in which, the respondents received Rs.1 lakh as share of their property in OS No.395/2001. The same was recorded by the trial Court in OS No.395/2001 dated 17.12.2007, in which, the suit was dismissed by recording the settlement arrived at between the parties. However, for the very same cause of action and for the very same property, the respondents filed another suit in OS No.921/2019 on the file of the Sub Court, Dindigul and since the same is impermissible, the petitioners/defendants are before this Court.

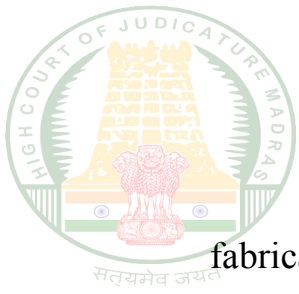


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3. The learned counsel for the petitioners would submit that since for the same cause of action, when once the dispute was settled between the parties, once again filing of another suit for the very same property is not just and proper and it is purely an abuse of process of Court and on the ground, prays for interference.

4. The learned counsel for the petitioners, would contend that the suit was dismissed in terms of Order II Rule 2 of the Code of Civil Procedure and on the basis of the compromise entered into between the parties outside the Court. For the very same cause of action, another suit is not maintainable. However, only after obtaining leave from the Court, the respondents could file a fresh suit. However, in the present case, neither an application was filed for praying leave of the Court nor leave is granted by any competent Court and hence, in the absence of any leave, the suit filed for the very same relief is malicious one and hence, prays for interference.

5. The learned counsel for the respondents, would however contend that the muchalikka prepared and produced before this Court is a



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fabricated one and the respondents are neither the signatory to the same nor a memo is filed to show that the dispute is amicably settled outside the Court. It is true that the suit was dismissed on 17.12.2007 on the basis of the compromise, however, not in terms of Order II Rule 2. However, when a fraud is played by the petitioners, the respondents are entitled to file a fresh suit to explain that the earlier settlement arrived at between the parties is not true.

6. I have considered the rival submissions and perused the materials available on record.

7. Earlier the first respondent/plaintiff filed a suit for partition claiming $1/3^{\text{rd}}$ share of the suit property, wherein a settlement has been arrived at between the parties and on the basis of the said settlement arrived at, the suit was dismissed and the respondents/plaintiffs have also received their share on 17.12.2007. While so, for the very same cause of action and for the very same property, the respondents/plaintiffs have preferred another suit for the very same relief of partition. When there was a settlement arrived at between the parties and on the basis of the



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said settlement, the earlier suit was dismissed, filing another suit for the very same property is clear abuse of process of Court. It is also seen that the respondents/plaintiffs have also received their share on 17.12.2007, which is not disputed by the plaintiffs. However, after a decade, ie., in the year 2019, another suit was filed for the very same property, which is unsustainable.

8. In fine, the civil revision petition is allowed and the plaint in OS No.921 of 2019 on the file of the Sub Court, Dindigul, is ordered to be struck off. No costs. Consequently connected Miscellaneous Petition is closed.

05.06.2025

NCC : Yes/No
Index : Yes/No

RR

TO

1.The Sub Court, Dindigul

2.VR Section

Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI,J

RR

**ORDER
IN
CRP(MD) (NPD) No.942 of 2020**

Date : 05/06/2025



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