



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 23.06.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.[PD](MD)No.1716 of 2025

and

C.M.P.(MD)No.9319 of 2025

1.Swaminathan

2.Shanmuganathan

..Petitioners

Vs.

1.Mahakrishnan

2.Aruljothi

3.Tamilarasi

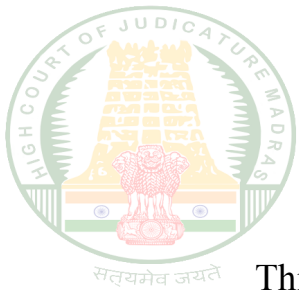
4.Jeyalakshmi (died)

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to allow the Civil Revision Petition by setting aside the fair and decreetal order in I.A.No.10 of 2025 in O.S.No.394 of 2018 on the Additional Sub Court, Pudukkottai, dated 25.04.2025.

For Petitioners : Mr.N.Balakrishnan

For Respondents : Mr.T.Lenin Kumar



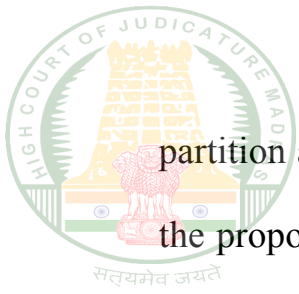
ORDER

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This petition has been filed seeking orders to set aside the fair and decreetal order made in I.A.No.10 of 2025 in O.S.No.394 of 2018 on the file of the Additional Sub Court, Pudukkottai, dated 25.04.2025.

2. The respondents / plaintiffs filed a suit in O.S.No.394 of 2018 on the file of the learned Subordinate Judge, seeking declaration of title in favour of the first respondent in respect of the plaint 'B' Schedule properties, and for consequential relief of permanent injunction restraining the defendants, their men and agents from interfering in any manner with the first respondent's separate possession and enjoyment of the said properties. The petitioners are arrayed as defendant Nos.1 and 2 in the said suit. Subsequently, in the year 2025, the petitioners filed an application under Order VI Rule 17 of the Code of Civil Procedure, seeking amendment of the written statement to correct the year of oral partition from "1976" to "1974", as the year "1976" was inadvertently mentioned in the original pleadings. The petitioners submitted that the said error occurred due to oversight, and therefore, sought permission to amend the pleadings. However, the trial Court, by order dated 25.04.2025, dismissed the said application.

3. The learned counsel appearing for the petitioners would that in the written statement, the petitioners had erroneously stated the year of oral



partition as 1976 instead of the correct year, 1974. It was further contended that the proposed amendment does not cause any prejudice to the respondents, who are at liberty to cross-examine and disprove the said oral partition in accordance with law. Hence, the learned counsel appearing for the petitioner prays for allowing the present revision.

4. The learned counsel appearing for the respondents would submit that the suit was filed in the year 2018, and the written statement was filed soon thereafter, wherein the oral partition was stated to have occurred in the year 1976. After a lapse of seven years, the petitioners have now come forward with the amendment petition under Order VI Rule 17 CPC, seeking to substitute the year as 1974, which, according to the respondents, is nothing but an attempt to drag on the proceedings and to create evidence. The learned counsel would further submit that the trial Court rightly appreciated the said aspect and dismissed the amendment application, which warrants no interference. Accordingly, he prays for dismissal of the Civil Revision Petition.

5. Upon consideration of the submissions made by the learned counsel on either side and on perusal of the materials available on record, this Court is of the view that the proposed amendment sought by the petitioners is only to rectify an inadvertent error in the year of the oral partition, which is a material fact the petitioners propose to substantiate during trial. The amendment does not



change the nature of the defence and no prejudice would be caused to the respondents, who are at liberty to cross-examine and contest the plea of oral partition in the manner known to law. Therefore, this Court is inclined to allow the present Civil Revision Petition by setting aside the order passed by the trial Court.

6. In the result, this Civil Revision Petition is allowed. The fair and decreetal order dated 25.04.2025 passed in I.A.No.10 of 2025 in O.S.No.394 of 2018 by the learned Additional Subordinate Judge, Pudukkottai, is hereby set aside. The petitioners are permitted to carry out the amendment in the written statement as prayed for. It is made clear that if any document is filed by the petitioners pursuant to the amendment, and if the same affects the rights or interest of the respondents, it is open to the respondents to file appropriate objections before the trial Court in accordance with law.

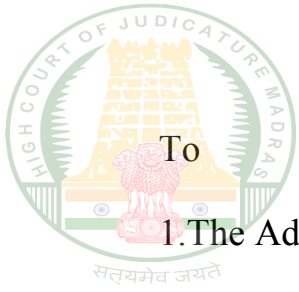
7. Since the suit is of the year 2018, the trial Court is directed to dispose of the suit in O.S.No.394 of 2018, on merits and in accordance with law, within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

23.06.2025

Internet:Yes/No

Index:Yes/No

TSG



To

1.The Additional Sub Court, Pudukkottai.

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



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M.DHANDAPANI, J.

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