

C.R..P.(PD)(MD).No.1662 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.1662 of 2025

and

C.M.P.(MD)No.8818 of 2025

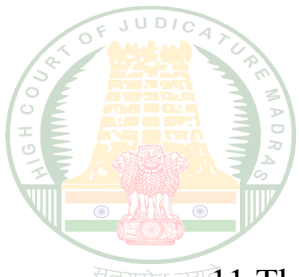
ABT Ltd., Through its
Assistant Manager,
T.Pushpalingam,
S/o.Thanganadar,
180, Race Course Road,
Coimbatore District.

... Petitioner

Vs.

1.J.Selvakumar
2.Krishnaperumal Nadar
3.L.Chitambaram
4.L.Mahalingam
5.R.Ponmuthu Ammal
6.L.Palpandi
7.L.Ramaiah
8.L.Muthukutti
9.L.Perumal

10.The Chief Engineer,
Wind Energy Project,
Tamil Nadu Electricity Board (TNEB),
Tirunelveli District.



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11.The Superintending Engineer,
Wind Energy Development Engineer,
Tamil Nadu Electricity Board, (TNEB),
Tirunelveli District.

... Respondents

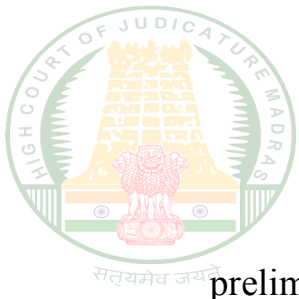
PRAYER: Civil Revision Petition - filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed in I.A.No.01 of 2023 in O.S.No.105 of 2010 passed on 20.12.2024 on the file of the Subordinate Court, Valliyoor, Tirunelveli District and sought to set aside the same still the disposal of the Civil Revision Petition.

For Petitioner : Mr.T.Thirumurugan

ORDER

This Civil Revision Petition is filed challenging the fair and decreetal order passed in I.A.No.01 of 2023 in O.S.No.105 of 2010 passed on 20.12.2024 on the file of the Subordinate Court, Valliyoor, Tirunelveli District.

2.The petitioner is the ninth defendant in the suit filed by the first respondent/plaintiff in O.S.No.105 of 2010. The suit was decreed and also confirmed before the Lower Appellate Court as well as this Court in second appeal. Thereafter, the petitioner filed an application in I.A.No.1 of 2023 for carrying out necessary correction in allocation of share mentioned in the



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preliminary decree under Section 152 of CPC and the said application was dismissed. Challenging the same, the present Civil Revision Petition is filed.

3.The learned counsel for the petitioner submitted that the suit property originally belonged to one Krishna Perumal Nadar. From one of his legal heirs, the petitioner purchased the suit property to an extent of 49.25 cents. At the time of purchase, the property of Krishna Perumal Nadar was not divided among his legal heirs. Hence, the petitioner purchased the property to an extent of 48.25 cents from the undivided shares of his vendor. Thereby, the first respondent /purchaser filed a partition suit in O.S.No.101 of 2005 claiming the property purchased by him to an extent of 48.25 cents. However, the trial Court instead of allotting 49.25 cents to the plaintiff, which is alleged to be purchased by the plaintiff, allotted the entire shares i.e., 9/24 of the vendor of the first respondent measuring an extent of 82.43 cents, over and above the relief sought by the first respondent/plaintiff.

4.Aggrieved by the same, the petitioner filed an appeal in A.S.No.65 of 2006 on the file of the District Court, Tirunelveli and the same was dismissed on 30.11.2007. Assailing the judgment of the Lower Appellate Court, the



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petitioner preferred a second appeal in S.A.(MD)No.122 of 2011 and the same was dismissed on 21.06.2011. However, no SLP was filed either by the petitioner or by any of the aggrieved persons. Thereafter, the petitioner claiming that there is an clerical mistake committed by the Courts below and this Court, filed a petition under Section 152 of CPC. The trial Court without considering the above said provisions, dismissed the petition filed by the petitioner and the same is not sustainable. Hence, he prays for appropriate orders.

5.Since no adverse order is going to be passed in this petition, notice to the respondents is dispensed with.

6.The facts in the present case are not in dispute. Admittedly, the first respondent/plaintiff filed a partition suit claiming the rightful of share of his vendor. However, he restricted his claim to an extent of 49.25 cents, which was allegedly purchased by him from his vendor. The matter was adjudicated before the trial Court in O.S.No.105 of 2010 and the plaintiff was awarded with the larger extent of property granted in favour of the petitioner's vendor, since the plaintiff purchased the undivided share of his



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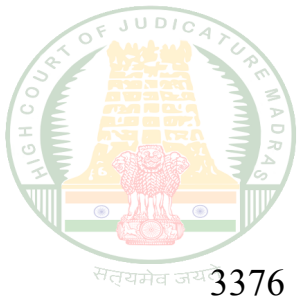
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vendor, which was earlier measured by his vendor only to an extent of 49.25 cents. The said judgment was confirmed by the Lower Appellate Court in A.S.No.65 of 2006 and as well as this Court in S.A.(MD)No.122 of 2011 and the said judgment attained finality as no SLP was prepared as against the said decree and judgment.

7.The partition litigation filed by the plaintiff was ended in the year 2011 itself. Now after a lapse of more than a decade, the ninth defendant in the original suit filed a petition under Section 152 of CPC seeking amending in the judgment claiming that there is an clerical mistake committed by the Courts below and this Court, filed a petition under Section 152 of CPC.

8.The issue arises for consideration in this Civil Revision Petition is *whether the amendment sought by the petitioner before the trial Court is in terms of Section 152 of CPC for clerical or arithmetical mistake?*

9.This Court perused the order passed by the trial Court in application filed by the petitioner seeking amendment in the judgment. The trial Court relied upon the decision rendered by the Hon'ble Supreme Court in AIR SC



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3376 in the case of Suboth Kumar doss vs. Kalyanakumar doss, wherein it has been held that *in a partition suit, the purchaser derives title from the co-owner and is entitled to their share based on the co-owners entitlement. If no co-owner objects, the Court's finding are binding.*

10.In the present case, the first respondent/plaintiff purchased the property from the co-owner measuring his undivided share to an extent of 49.25 cents and stepped into the shoes of his vendor/co-owner. Admittedly, the trial Court, in a partition suit filed by the plaintiff after adjudication arrived at a conclusion that the co-sharer is entitled to 82.43 cents and since the plaintiff stepped into the shoes of the co-sharer by purchasing his undivided share, the plaintiff is entitled to the shares allotted to his vendor/co-sharer. The said judgment was also confirmed in the appeal before the Lower Appellate Court as well as this Court and the same cannot be modified before the trial Court under Section 152 of CPC. Section 152 of CPC empowers the courts to correct clerical or arithmetical mistakes, or errors arising from accidental slips or omissions in judgments, decrees, or orders. Thus amendment sought by the petitioner does not come under the purview of Section 152 of CPC. The trial Court has rightly appreciated all



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these factual aspects and dismissed the petition filed by the petitioner seeking amendment and the same need not be interfered.

11.Accordingly, this Civil Revision Petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

17.06.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Sub Court, Valliyoor, Tirunelveli District.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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