



C.R.P.(PD)(MD).No.1867 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.1867 of 2025

and

C.M.P.(MD)No.10337 of 2025

1.Ganesan
2.Rajamani

... Petitioners

Vs.

1.Valliyammal
2.Rajamani
3.Athimuthu
4.Shanmugakani
5.Padma
6.Santhanam
7.Delli
8.Marimuthu
9.Kalimuthu
10.Kasilingaperumal
11.Kalimuthu
12.Muthumani
13.Thamaraiselvi
14.Saraswathi
15.Muniyammal
16.Sivagami
17.Senthoorpandi
18.Padma
19.Paramasivan
20.Arumugam



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21.Rajamani
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Avudaiyammal (died)

22.Muniyandi

23.Senthoorpandi

24.Ammasikani

25.Ponmuniammal

26.Velraj

27.Mariappan

... Respondents

PRAYER: Civil Revision Petition - filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 21.04.2025 in I.A.No.10 of 2025 in O.S.No.54 of 2018 on the file of the I Additional District Court, Thoothukudi.

For Petitioner : Mr.G.Prabhu Rajadurai
For RR1, 10, 14,
16, 18 & 19 : Mr.I.Robert Chandrakumar

For RR2 -9, 11-13,
13 & 17 : No Appearance

ORDER

This Civil Revision Petition is filed challenging the order dated 21.04.2025 in I.A.No.10 of 2025 in O.S.No.54 of 2018 on the file of the I Additional District Court, Thoothukudi.

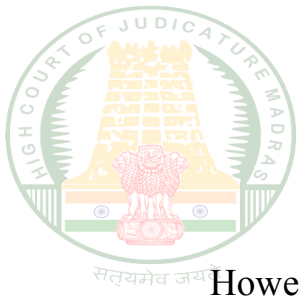


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2.The petitioners are the second and third defendants in the suit in O.S.No.54 of 2018 filed by the plaintiffs for partition. In that suit, initially, the petitioners filed a written statement in the year 2019. Thereafter, the petitioners came to know that the petitioner's father's brother had three wives and the branches of first wife were not added as party to the suit, while the others were impleaded. Apart from that the petitioners' father's brothers, namely, Nainar, Muthu and Muniyandi have sold some properties in favour of the petitioner's father and the said properties were also included as the subject matter of partition suit. However, the said facts were sought to be brought to the knowledge of the trial Court by way of additional written statement. However, both the contentions raised by the petitioners were rejected by the trial Court. Challenging the same, the present Civil Revision Petition is filed.

3.The learned counsel for the petitioners submits that at the time of the filing the written statement in the year 2019, the petitioners reserved their right to file additional written statement while obtaining necessary documents. The sale deeds executed in favour of the petitioners' father came to the knowledge of the petitioners recently. Therefore, the petitioners filed an application to condone the delay in filing the additional written statement.



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However, the trial Court has dismissed the said application by denying the right of the petitioner to file additional written statement.

4.The learned counsel for the respondents/plaintiffs submitted that admittedly the suit is filed in the year 2018. The original written statement was filed in the year 2019. Subsequently, after a lapse of seven years and at the time of plaintiffs' side cross examination, the present additional written statement is filed, which is not sustainable. The trial Court has rightly rejected the request of the petitioners and the same need not be interfered with.

5.Considered the rival contentions made on either side and perused the materials placed on record.

6.Admittedly, the suit for partition was filed in the year 2018. In that suit, the petitioners/defendants filed their written statement in the year 2019 itself. Now after a lapse of eight years, the petitioners seek to file an additional written statement on the ground that necessary parties were not impleaded as party to the suit.



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7. Though the petitioners claim that the petitioners' father's brother had three wives, the petitioners have not proved the same by providing substantial evidence. The other plea raised by the petitioners that the brothers of the petitioners' father relinquished the property in favour of the petitioners' father, is to be canvassed at the time of trial before the trial Court by letting proper evidence and the said plea cannot be canvassed under Order VIII Rule 9 of CPC before the trial Court or under Article 227 of the Constitution of India before this Court that too after a lapse of eight years by way of additional written statement. Thereby, the trial Court dismissed the petition and the same need not be interfered.

8. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

07.08.2025

NCC : Yes/No
Internet : Yes / No
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To

- 1.The I Additional District Court, Thoothukudi.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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