



C.R.P.(NPD)(MD).No.2053 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(NPD)(MD)No.2053 of 2025
and
C.M.P.(MD)No.11916 of 2025

C.Manimaran

... Petitioner

Vs.

1.R.Baskaran

2 R.Krishnan

3.R.Chandrasekaran

4.R.Sivakumar

5. Kalaiselvi

... Respondents

PRAYER: Civil Revision Petition filed under section 115 of Civil Procedure Code, to call for the records pertaining to the fair and decreetal order dated 14.02.2024 made in I.A.No.3 of 2019 in O.S.No.317 of 2019 on the file of the Sub Court, Devakottai and set aside the same and consequently allow the present Civil Revision Petition.

For Petitioner : Mr.J.Anandkumar

For Respondents :Mr.S.Sathya Chidhambaram



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ORDER

This Civil Revision Petition is filed challenging the order made in I.A.No.3 of 2019 in O.S.No.317 of 2019 on the file of the Sub Court, Devakottai.

2.The petitioner is the defendant in the suit in O.S.No.317 of 2019 filed by the respondents/plaintiffs for partition and other consequential remedies. The petitioner seeking to strike off the said suit filed an application before the trial Court under Order 7 Rule 11(d) and Section 151 of CPC on the ground of res judicata. The said application was dismissed. Challenging the same, the present Civil Revision Petition is filed.

3.The learned counsel for the petitioner submits that the petitioner entered into a sale agreement with the father of the respondents herein. Since the said sale agreement was not honoured, the petitioner filed a suit for specific performance in O.S.No.76 of 2010 and the said suit was decreed. Aggrieved by the same, the respondents filed an appeal in A.S.No.20 of 2011. The said appeal was dismissed. Challenging the same, the respondents filed a



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second appeal in S.A.(MD)No.824 of 2012 and the said second appeal was also dismissed. Thereby, the petitioner filed a execution petition and took possession of the property in question. While so, the respondents herein has filed the present suit on the ground that the mother of the respondents was not the party to the suit proceedings and her shares has to be partitioned, which is not at all sustainable. Hence, he prayed for appropriate orders.

4.Per contra, the learned counsel for the respondents submits that the issues raised in this petition as well as the present suit are to be decided before the trial Court at the time of trial. They would submit that the decree of the trial Court is only as against the father of the respondents and not as against them, though the respondents are the party to the *lis* up to the level of this Court. Thereby, they filed the present suit for partition claiming their shares along with their mother's share.

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



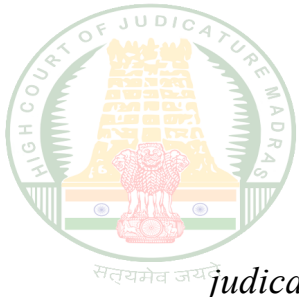
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6.The facts in the present case are not in dispute. It is also equally undisputed that the respondents/plaintiffs are the party to the earlier round of litigation. Initially, the petitioner filed a suit as against the father of the respondents for specific performance. Since the father of the respondents died during the pendency of the litigation, the respondents were impleaded in that suit as the legal representatives of their father.

7.All along, till the dismissal of the second appeal, the petitioners were party to the proceedings initiated by the petitioner herein with regard to the property in question as against their father. Even then, only for the first time, the respondents have taken a stand that the mother of the petitioners were not impleaded as party to the proceedings and the decree is only as against their father and hence, it is not binding on them. It is not possible for this Court to accept such a contention at this stage.

8.When a matter, whether on a question of fact or on a question of law, has been decided between two parties or their privies in one suit and the said decision is final, neither party will be allowed in a future suit or proceeding to canvass the matter again and the same is barred by the principle of *res*



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judicata. In the present case also, the issue in question was decided by the civil Court as well as this Court in the earlier round of litigation. It is also to be noted that the respondents herein are the parties to that proceedings. Therefore, the parties cannot be allowed to re-litigate the issue, which has attained finality by the judgment of this Court in the second appeal filed by the respondents herein.

9. Accordingly, this Civil Revision Petition is allowed and the suit in O.S.No.317 of 2019 is hereby struck off. No costs. Consequently, connected miscellaneous petition is closed.

20.08.2025

NCC : Yes/No
Internet : Yes / No
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To

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



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M.DHANDAPANI,J.

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