

C.R.P.(MD)No. 1759 of 2

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED: 13.08.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.1759 of 2022

and

C.M.P.(MD)No.7777 of 2022

1.Dr.S.Jaikish

2.Dr.C.Geethasankari

...Petitioners

Vs.

1.Deval Y.Patel

2.Gowri M.Patel

3.Haresh N.Patel

4.Mohan N.Patel

5.Bhagavathi Y.Patel

6.Panbai N.Patel

7.Minor Vineeth Patel

8.The Revenue Divisional Officer,

Office of the Revenue Divisional Officer,

Tiruchirappalli.



C.R.P.(MD)No. 1759 of 2

9.The Tahsildar East,
East Taluk Office,
Fort,

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Tiruchirappalli.

10.The Zonal Deputy Tahsildar East,
East Taluk Office,
Tiruchirappalli.

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to strike off the plaint as far as “A” schedule property in O.S.No.779 of 2021, on the file of the learned Subordinate Judge, Trichy by allowing the above Civil Revision Petition.

For Petitioners : Mr.A.Robinson

For Respondent No.1 : Mr.H.Arumugam

For Respondents 2,4&6 : No appearance

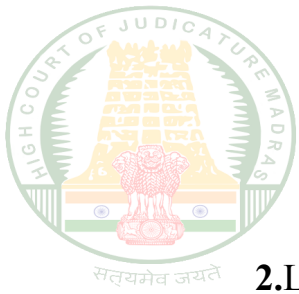
For Respondent No.3 : Mr.R.Sakthivel

For Respondents 8 to 10 : Mr.B.Saravanan

Additional Government Pleader

ORDER

This petition has been filed seeking to strike off the plaint as far as “A” schedule property in O.S.No.779 of 2021, on the file of the learned Subordinate Judge, Trichy.



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2.Learned Counsel for the petitioners would submit that the petitioners are third parties in O.S.No.779 of 2021, on the file of the 2nd Additional Subordinate Judge, Trichy and the said suit was filed by the first respondent as against the other respondents for claiming partition, 1/5th share as against other respondents including the 'A' schedule property. Challenging, the same the present Civil Revision Petition has been filed.

3.Learned Counsel for the petitioner would submit that the first respondent / plaintiff in the suit claims himself to be the grandson of one K.Narayan Kimji Patel, who executed a partition deed dated 17.11.2000, in favour of the him as well as in favour of the second respondent / first defendant and had given the property comprised in S.No.46/4A3, Bye Pass Road, Ariyamangalam, Trichy to the share of the first respondent / plaintiff and another property comprised in S.No.1/907 situated at Kutralam Cross Road, Piranoor Border, Sengottai, Tenkasi. On the strength of this unregistered partition deed, the first respondent has filed the partition suit against the defendants 1 to 6. With the above pleadings, the first respondent / plaintiff has filed the above suit and believing the version of the first respondent, the learned Subordinate Judge granted an ex-parte injunction in I.A.No.2 of 2021, in the aforesaid suit in O.S.No.779 of 2021. The first respondent / plaintiff further



alleged that the sixth defendant / seventh respondent has changed the patta in respect of 'A' schedule property and hence, the revenue officials were made as defendants 7 to 9 in the suit.

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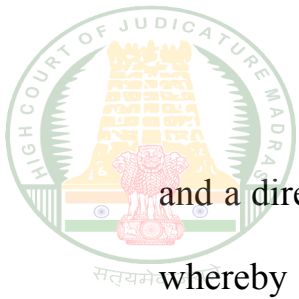
4.It is the further case of the petitioners that the first petitioner and the second petitioner are Doctors by profession and both are running a hospital in the name of Atlas Hospital at Trichy. In order to establish a new hospital, they intended to purchase a property comprised in T.S.No.18/16/1 presently T.S.No. 18/45 and 18/46 in S.No.46/A and new S.No.46/4A/3 in Ward Q, Block No.2 at Chennai Bye-pass Road, Tharanallur Village, Ariyamangalam measuring an extent of 1 Acre 3 cents from one Vasantha Communications Private Limited and accordingly, they purchased the said property vide document Nos.177/2021 and 178/2021, on the file of the Joint Sub-Registrar office, No.III, Tiruchirappalli.

5.Learned Counsel for the petitioner would further submit that the vendor of the above property purchased the same through SARFAESI proceedings. The property initially belonged to one Narayan Kimji Patel. The said Narayan Kimji Patel had availed a loan by mortgaging several properties including the subject matter of property in the Indian Overseas Bank. Thereafter, they defaulted the payment of loan amount. Hence, the said properties were brought



for auction for a sum of Rs.3,64,41,44/- against the borrower namely Narayan Kimji Patel and the other partners and the sale notice has been issued which was challenged by the borrower in S.A.No.104 of 2007, before the Debts Recovery Tribunal, Madurai and the same was dismissed on 13.10.2010, by confirming the sale certificate issued by the bank against which the borrower also preferred an appeal in R.A.(SA)No.14/2011 and the same was also dismissed. On 16.01.2018, by confirming the order passed by the DRT, Madurai.

6.As against the said borrower, grandfather of the first respondent / plaintiff filed a Writ Petition in W.P.(MD)No.3486 of 2018 and this Court has confirmed the order of the Tribunal as against which, the first respondent's grandfather filed SLP in S.L.P.[Civil] Diary No.17137 of 2019 and the same was dismissed on 18.07.2019 and thus proved that the borrower namely the grandfather of the first respondent / plaintiff have no right over the property which was purchased by Vasantha Communications, who is the vendor of the petitioners through Court auction. Admittedly, the petitioners purchased the property for a valid sale consideration by paying Rs.4,68,72,461/- and also Rs. 26,07,832/- by availing loan from the Axis Bank for a sum of Rs.3.25 Crores and the balance was paid through their funds. While so, to grab the property illegally from the petitioners, the legal heirs of Narayana Kimji Patel have been giving all sorts of problems and in this regard a criminal complaint was lodged



and a direction was also issued by this Court in Crl.O.P.(MD)No.1589 of 2022,

whereby directed police to register the FIR and take necessary action and accordingly, the law enforcing agency registered a case in Crime No.262 of 2022, for the offences punishable u/s.447, 506 (i) of IPC, on the file of the Inspector of Police, Gandhi Market Police Station, Trichy and since they failed to grab the property from the petitioners, they intentionally filed the present partition suit in order to grab the property which is not sustainable. Thereby, the petitioners have approached this Court with the present Civil Revision Petition for striking off the plaint as regard the 'A' schedule property. Accordingly, he prays for appropriate orders.

7.In support of his contentions, learned Counsel for the petitioners relied upon the judgment of the Hon'ble Supreme Court in the case of ***Celir LLP Vs. Sumati Prasad Bafna and others reported in (2025) 1 MLJ 193 (SC)***.

8.Per contra, learned Counsel for the first respondent would submit that admittedly, the first respondent and his mother's share cannot be ousted. Since the property which is subject matter of the civil suit is an ancestral property and at any distant point of time, the share of the first respondent could be claimed in the partition suit and thereby, the first respondent rightly filed a partition suit before the trial Court. Therefore, all the grounds raised by the petitioners herein



could be raised and canvassed before the trial Court instead of canvassing in this Civil Revision Petition.

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9. In support of his contention, he relied on the following decisions:

i) *IDBI Bank, Salem Brnach Vs. Minor Sri Hari Aadharsh reported 2024 (1) CTC 158.*

ii) *K.Valarmathi and others Vs. Kumaresan reported in 2025 SCC Online SC 985.*

iii) *Central Bank of India and another Vs. Prabha Jain and others reported in (2025) 4 SCC 38.*

Accordingly, he prays for dismissal of this Civil Revision Petition.

10. Heard the learned Counsel for the parties and perused the materials available on record.

11. Admittedly, the first respondent filed a suit in O.S.No.779 of 2021, on the file of the 2nd Additional Subordinate Judge, Trichy, as against the other respondents claiming partition, 1/5th share including the 'A' schedule property. Even a bare perusal of the Debts Recovery Tribunal order makes it clear that possession was handed over in favour of the vendor of the petitioner on 16.10.2009. However, the unregistered alleged partition deed was executed only on 17.11.2000, after a lapse of one year, but the sale certificate was issued in



favour of Vasantha Communications on 20.10.2009. Further, the Debts Recovery Appellate Tribunal order also makes it clear that the grandfather of the first respondent / plaintiff alone has not obtained the loan and other 8 persons stood as guarantor and they were party to the proceedings. However, the first respondent / plaintiff at that time was aged only 1 year. Subsequent to the SARFAESI proceedings, however, the suit was filed after a decade, which is impermissible. It is a clear case of miscarriage of justice. Hence, this Court finds merit in the case of the petitioners.

12.As rightly relied on by the learned Counsel for the petitioner, the Hon'ble Supreme Court in the case of *Celir LLP Vs. Sumati Prasad Bafna and others reported in (2025) 1 MLJ 193 (SC)*, it has held by the Hon'ble Supreme Court that the sale by auction or other public procurement methods under the SARFAESI Act, once already confirmed or concluded ought not to be set aside or interfered with lightly except on grounds that go to the core of such sale process, such as either being collusive, fraudulent or vitiated by inadequate pricing or underbidding.

13.In the present case, admittedly, the sale was confirmed and sale certificate was issued in favour of Vasantha Communications on 20.10.2009. Thereafter, the petitioners have purchased the 'A' schedule property from



C.R.P.(MD)No. 1759 of 2

Vasantha Communication for a valid sale consideration. Whereas, the suit came to be filed in the year 2021, by the first respondent / plaintiff, claiming right over the 'A' schedule property.

14.Hence, following the judgment of the Hon'ble Supreme Court in the case reported in (2025) 1 MLJ 193 (SC), this Civil Revision Petition is allowed. Accordingly, the plaint in O.S.No.779 of 2021, on the file of the learned Subordinate Judge, Trichy is struck off in respect of the 'A' schedule property. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

13.08.2025

Internet:Yes/No

Index:Yes/No

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C.R.P.(MD)No. 1759 of 2

To

1.The Subordinate Judge,
Trichy.

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



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C.R.P.(MD)No. 1759 of 2

M.DHANDAPANI, J.

MR

C.R.P.(MD)No.1759 of 2022

13.08.2025