



CRP(MD). No.1592 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 19/06/2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

**CRP (MD). No.1592 of 2021
and CMP(MD) No.8671 of 2021**

Kuppusamy Gounder

... Petitioner/1st defendant

Vs

1. Vanjathal,
W/o.Aruchamy, Kandiya Gounder Pudur,
Pushpathur Post, Palani Taluk,
Dindigul District.

2. Vellathai,
W/o.Kuppusamy Gounder, Kandiya Gounder
Pudur, Pushpathur Post, Palani Taluk,
Dindigul District.

... Respondents/plaintiffs

3. Angathal,
W/o.Subramaniam, Kovil Ammapatti
Village, Palani Tk, Dindigul District..

... Respondents/2nd defendant

PRAYER :-Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 01.04.2021 passed in IA No.3 of 2020 in OS No.88 of 2012 on the file of the District Munsif Court, Palani.



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For Petitioner : Mr.H.Lakshmi Shankar
For Respondent : Mr.J.Bharathan for R1 and R2
No appearance for R3

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 01.04.2021 passed in IA No.3 of 2020 in OS No.88 of 2012 on the file of the District Munsif Court, Palani.

2. The petitioner's case is that the petitioner is the first defendant in OS No.88/2012 and during the pendency of the revision petition, the said suit was renumbered as OS No.265/2023 and transferred to the file of Sub Court, Palani and the original suit was filed in the year 2012 and the same was decreed on 20.07.1995. After eight years, the plaintiffs 1 and 2 filed an amendment petition in IA No.3 of 2020 under Order VI Rule 17 of the Code for amendment of pleadings to amend the prayer from partition to declaration declaring the judgment and decree dated 20.07.1995 in OS No.186/1995 on the file of the District Munsif, Palani, is null and void. The same was allowed. Challenging the same, the petitioner is before this Court.



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3. The learned counsel for the petitioner/defendant would submit that admittedly the respondents 1 and 2 filed the suit for partition against the petitioner in OS No.88/2012 (renumbered as OS No.265/2023) and prior to that the very same respondents 1 and 2 filed a suit in OS No. 186/1995, in which, the petitioner is arrayed as defendant. The said suit is for partition claiming $\frac{1}{2}$ share and maintenance of Rs.400/- to the 1st plaintiff. The said suit was dismissed as early as on 20.07.1995, however, after contest. Thereafter, the present suit is filed with the very same prayer against the very same defendants and hence, the same is not maintainable and the amendment is filed after a lapse of 25 years, which is contrary to Article 59 of the Limitation Act 1963 and hence, prays for interference.

4. The learned counsel for the respondents 1 and 2, per contra, would submit that the earlier suit was dismissed on threat and coercion and it came to the knowledge of the respondents 1 and 2 only in the year 2020 and immediately thereafter an amendment petition was filed and it was accordingly and rightly allowed and hence, prays for dismissal.



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5. I have considered the rival submissions and perused the materials available on record.

6. When the original suit was dismissed as early as on 20.07.1995 and for the very same prayer against the very same defendants, filing a petition to amend the pleadings is not sustainable and also not maintainable. When the prayer that has been sought for is in the nature of declaratory in nature, the order of the trial Court is not sustainable under Article 59 of the Limitation Act. Accordingly the order dated 01.04.2021 made in IA No.3 of 2020 is set aside and the Civil Revision Petition is allowed. No costs. Consequently connected Miscellaneous Petition is closed.

19.06.2025

NCC : Yes/No
Index : Yes/No

RR



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TO

1.The District Munsif Court, Palani.

2.VR Section

Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI,J

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**ORDER
IN
CRP(MD) (NPD) No.1592 of 2021**

Date : 19/06/2025