



C.R.P.(MD)No.2040 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.07.2025

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CORAM:

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

C.R.P(MD)No.2040 of 2025  
and  
C.M.P(MD)No.11821 of 2025

Mallammal

... Petitioner

Vs.

1.Shanmugathai  
2.Jeyamurugan  
3.Murugavel  
4.Kulathammal  
5.Rajalakshmi  
6.Shanmugalakshmi

... Respondents

**PRAYER:** Civil Revision Petition filed under Article 227 of Constitution of India, to struck off the I.A.No.3 of 21 in O.S.No.51 of 2009 on the file of the District Munsif Court, Vilathikulam.

For Petitioner : Mr.V.Karthikeyan

**ORDER**

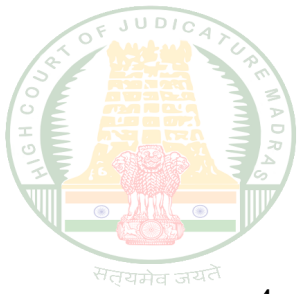
This Civil Revision Petition is filed seeking to struck off the I.A.No.3 of 21 in O.S.No.51 of 2009 on the file of the District Munsif Court, Vilathikulam.



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2. The case of the petitioner is that the first respondent/plaintiff filed a suit in O.S.No.51 of 2009 on the file of the District Munsif Court, Vilathikulam for partition against the petitioner and the respondents 2 to 6. After trial, the trial Court passed a preliminary decree on 12.02.2021. Against the said judgment and decree, the petitioner/first defendant filed A.S.No.5 of 2022 before the Sub-Court, Kovilpatti and the same is pending for adjudication. During pendency of the above appeal, the first respondent/plaintiff filed I.A.No. 3 of 2021 for passing the final decree. The trial Court also decided to proceed the final decree proceedings. Hence, the petitioner has filed the present Civil Revision Petition to struck off the I.A.No.3 of 2021 in O.S.No.51 of 2009.

3. The learned counsel appearing for the petitioner would submit that when the appeal is pending before the trial Court, even in the absence of any restrained order, the trial Court ought to have wait the final disposal of the appeal. However, without considering the pendency of the appeal, the trial Court decided to proceed the final decree proceedings, which is not sustainable one. On the sole ground only, the petitioner filed this petition and prays for allowing the civil revision petition.



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4. Since no adverse order is going to be passed as against the respondents, notice to the respondents is dispensed with.

5. The facts remains that as against the preliminary decree, the petitioner preferred an appeal in A.S.No.5 of 2022 before the Sub-Court, Kovilpatti and he fails to obtain any interim order for passing any final decree. In the absence of any interim order, there is no prohibition for the trial Court to proceed the final decree proceedings. Even if the final decree is passed, it is an appealable order before the lower appellate Court, hence, the prayer sought for in the Civil Revision Petition is not maintainable. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

**28.07.2025**

Index : Yes/No  
Internet : Yes / No  
am



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To

- 1.The District Munsif Court,  
Vilathikulam.
- 2.The Section Officer,  
Vernacular Records,  
Madurai Bench of Madras High Court,  
Madurai.



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**M.DHANDAPANI,J.**

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