



CRP(MD). No.1805 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.1805 of 2021
and CMP(MD) No.9695 of 2021**

Soundararajan

... Petitioner/Plaintiff

Vs

1. S.Ramachandran

... Respondent/1st defendant

2. Velchamy

3. Jasmine Mumtaj

4. The Superintendent of Police,,
The District Superintendent of Police
Office,Theni,Theni District..

5. The Sub-Registrar,,
Sub-Registrar Office,Theni,
Theni District..

6. Suruliammal,,

7. The State of Tamil Nadu,,
Rep by the District Collector,Theni,
Theni District..



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8. Sathiyapriya Alias Surulijakkammal,,
J.Vijayapandi, (Died)

... Respondents/
defendants 2 to 9

PRAYER :-Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 05-10-2021 made in I.A.No.7 of 2021 in O.S.No.195 of 2014 on the file of District Munsif Court,Theni.

For Petitioner : Mr.George Raja
For Respondent : Mr.P.T.Thiraviam for R4,R5 and R7
Government Advocate
No appearance for R1 to 3 and R6

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 05-10-2021 made in I.A.No.7 of 2021 in O.S.No.195 of 2014 on the file of District Munsif Court,Theni.

2. The petitioner's case is that the petitioner is the plaintiff in OS No.195/2014 and the said suit was filed by him for declaration declaring that the suit schedule property belong to him and restraining the defendants not to interfere with the same and declaring the cancellation of sale deed No.8155/2014 is null and void. After the examination of



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P.W.1, the respondent claimed that there was a partition on 09.06.1979, which was not pleaded in the written statement. However, in the present application, it is stated that since the original parties to the partition suit were no more, the legal heirs of Jakkamma Naicker @ Vellaiyappa Naicker, namely, Chellakannu is to be enquired and the same was objected by the petitioner herein. However the said application was allowed. Challenging the same, the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that the 1st respondent/1st defendant never pleaded in the written statement that there was any partition deed and hence, in the absence of specific plea, no evidence can be looked into and in order to drag on the proceedings alone, the present application came to be filed. The alleged partition deed is unregistered and hence, it is not valid in the eye of law and the persons having shares are not parties to the partition deed. When it is stated that the properties are ancestral properties and the defendants 1 and 2 are brothers, the examination of the legal heir of Jakkamma Naicker @Vellaiyappa Naicker is unwarranted. For all these reasons, he prays for interference.



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4. Though notice was served on the respondents 1 to 3 and 6 and their names are printed in the cause list, none appears for the respondents 1 to 3 and 6.

5. Considering the submission of the learned counsel for the revision petitioner, this Court is inclined to dispose of the present case.

6. The facts in the present case are not in dispute. Admittedly, the petitioner/plaintiff filed the suit for declaration and permanent injunction restraining the respondents/defendants and also filed the suit for declaration declaring the cancellation deed dated 8185/2014 is null and void and at the time of trial, the 1st respondent/1st defendant filed IA No. 7/2021 for examining the independent witnesses to prove the partition dated 09.06.1979. Though the grievance of the petitioner is that when the respondent/1st defendant has not pleaded in the written statement, without any pleading, proving the partition dated 09.06.1979 through independent witnesses is impermissible one, the petitioner has every right to examine the independent witness at the time of enquiry and it is for the petitioner to disprove the same by cross-examining him.



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6. Accordingly, the Civil Revision Petition is dismissed, however, liberty is granted to the petitioner to take all defence at the time of trial. No costs. Consequently connected Miscellaneous Petition is closed.

19.06.2025

NCC : Yes/No

Index : Yes/No

RR

TO

1.The District Munsif Court,Theni.

2. The Superintendent of Police,,
The District Superintendent of Police
Office,Theni,Theni District..

3. The Sub-Registrar,,
Sub-Registrar Office,Theni,
Theni District..

4. The State of Tamil Nadu,,
Rep by the District Collector,Theni,
Theni District..

5.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.1805 of 2021**

Date : 19/06/2025