



C.R..P.(MD).No.2172 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P(MD)No.2172 of 2025

and

CMP (MD) No.12756 of 2025

Janarthanan

... Petitioner(s)

Vs.

M.Venkatraman (Died)

1. V.Neethilakshmi
2. V.Sridhar
3. V.Sakthiganesh
4. S.Geetha
5. S.Thrisha
6. S.Ishwarya

... Respondent(s)

PRAYER: Civil Revision Petition - filed under Article 227 of Constitution of India, to set aside the fair and Ex-order dated 30.06.2025 in I.A.No.03 of 2024 in O.S.No.476 of 2018 on the file of the III Additional Subordinate Court, Madurai and set aside the same by allowing this Civil Revision Petition.

For Petitioner : Mr. P.Murughadasan



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ORDER

This Civil Revision Petition is filed for a direction to set aside the fair and executable order dated 30.06.2025 passed in I.A.No.03 of 2024 in O.S.No.476 of 2018 on the file of the III Additional Subordinate Court, Madurai and to allow this Civil Revision Petition.

2. The petitioner is the defendant in O.S.No.476 of 2018. The respondent/plaintiff filed the said suit claiming damages to the tune of Rs. 2,11,500/- in respect of the 'B' schedule property which was allegedly occupied by the petitioner from 15.03.2016 to 16.03.2018. However, earlier, the very same plaintiff had instituted a suit for partition in O.S.No.24 of 2005, which was initially dismissed. Subsequently, the respondent/plaintiff filed an appeal in A.S.No.24 of 2009 before the lower appellate Court, which was allowed, resulting in grant of preliminary partition decree, followed by a final decree. The said final decree attained its finality. Once the issue concerning the rights over the property was settled through the partition proceedings, filing a separate suit for damages on the very same issue before the trial Court is not sustainable.



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3. The learned counsel for the petitioner would submit that the earlier counsel representing the petitioner failed to raise this legal plea during the course of trial. Consequently, a new counsel was appointed, who upon perusal of the case records, identified that the subsequent suit filed by the respondent/plaintiff is untenable in view of the earlier adjudication in O.S.No. 24 of 2005. However, the trial Court, without properly appreciating the facts and legal contentions, dismissed the interlocutory application filed by the revision petitioner. Aggrieved by the same, the present revision petition has been instituted by the petitioner.

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

5. Heard the learned counsel for the petitioner and perused the materials available on record.

6. The facts in the present case are not disputed. Admittedly, the respondent/plaintiff filed a suit in O.S.No.476 of 2018. In the said suit, the



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petitioner participated in the entire trial and only at the stage of arguments, filed I.A.No.3 of 2024 seeking stay of the suit under Section 10 of Code of Civil Procedure on the ground that the issue had already been settled between the parties in O.S.No.24 of 2005 and A.S.No.24 of 2009. However, this Court, upon perusal of the entire records, it is evident that O.S.No.24 of 2005 was a suit for partition filed by the deceased respondent/plaintiff, which was allowed by the lower appellate Court in A.S.No.24 of 2009. The plaintiff's claim in the present suit is that the suit schedule property was allotted to him in the partition proceedings and that the petitioner/defendant failed to pay rent for the period from 15.08.2015 to 16.03.2018. On that basis, he seeks damages in respect of 'B' schedule property, which was allotted to him pursuant to the partition decree.

7. Therefore, it is clear that the earlier suit for damages are based on distinct cause of action and involve different issues. The present suit does not attract the applicability of Section 10 of the Code of Civil Procedure and the trial Court rightly dismissed I.A.No.3 of 2024 in O.S.No.476 of 2018. This Court finds no reason to interfere with the said order.



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8. In the result, this civil revision petition stands dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

07.08.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
PKN

To

- 1.The III Additional Subordinate Court, Madurai.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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