



C.R.P.(MD)No.2196 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.08.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.2196 of 2025

and

C.M.P.(MD).No.12998 of 2025

Ramalakshmi Aachi @ Suseela (died)

1.Balaji

2.Devamatha

...Petitioners

Vs.

1.Palaniappan

2.Subramani

3.Subbiah @ Subbu

4.Venkatesh Prasath

5.M/s.Naruvizhi Ambal Modern Rice Milll (Private) Limited,
Puduvayal,
Karaikudi Taluk,
Sivagangai District.

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order made in I.A.No.5 of 2025 in



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O.S.No.91 of 2017 on the file of the Sub Court, Devakottai, dated 15.07.2025 in respect of the third document alone mentioned therein and allow this Civil Revision Petition.

For Petitioners : Mr.C.Jeya Prakash

For Respondents : Mr.R.Sundar Srinivasan

ORDER

This petition has been filed seeking to set aside the fair and decreetal order made in I.A.No.5 of 2025 in O.S.No.91 of 2017 on the file of the Sub Court, Devakottai, dated 15.07.2025 in respect of the third document alone mentioned therein.

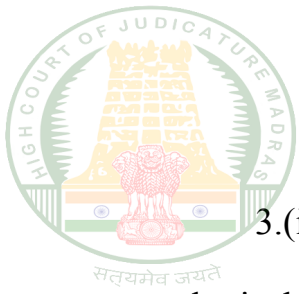
2. The petitioners along with their mother filed a suit in O.S.No.91 of 2017 before the Subordinate Court, Devakottai, against the respondents herein seeking partition claiming half share in the suit property, and for declaration declaring that the sale deed dated 17.05.2013 is null and void, and for permanent injunction and damages. In the said suit, after the receipt of summons, the respondent Nos.1 to 3 had not entered appearance and they were set exparte. The respondent Nos.4 and 5 entered their appearance and contested the case by filing a detailed written statement. Pending suit, the petitioners / plaintiffs herein filed three interlocutory applications in I.A.Nos.5, 6 and 7 of



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2025 before the trial Court. The said petitions were filed for (i) receiving five documents, (ii) for reopening the case, and (iii) for recalling Plaintiff Witness No.1 (P.W.1). However, the trial Court allowed the interlocutory applications in I.A.Nos.6 and 7 of 2025 by an order dated 15.07.2025 and in respect of I.A.No.5 of 2025 it was allowed in respect of document Nos.1, 2, 4 and 5, but dismissed in respect of the third document, viz., the Family Arrangement dated 25.06.1966. Challenging the same, the present petition has been filed.

3. The learned counsel appearing for the petitioners would submit that Exs.A1 to A3 were marked. However, Page No.4 alone was missing. Therefore, in the present petition, the very same document was again marked along with the original document with Page No.4. However, the trial Court arrived at a conclusion that the said document is not a registered document, hence the same cannot be marked. He relies upon the judgment of this Court reported in **2001-(1)-L.W.257** wherein, in paragraph No.41, this Court clearly held that the document in question being unstamped and unregistered cannot be looked into for any purpose. In paragraph No.42, it is further held that a document in the nature of a memorandum, evidencing a family arrangement already entered into and prepared as a record of what had been agreed upon, in order that there are no hazy notions in future, need not be stamped or registered.



3.(i). The learned counsel appearing for the petitioners would further submit that in view of the above decision and the admitted fact that the family arrangement was entered into in the year 1966 and need not be stamped, the veracity and the contentions of the document can be looked into only at the time of trial. Refusing to mark the document at this stage is impermissible. Accordingly, he prays for allowing this petition.

4. Per contra, the learned counsel appearing for the respondents would submit that the main grievance of the petitioners is that the trial Court should have allowed the petitioners to mark the alleged deed of partition dated 25.06.1966. Even a cursory reading of the said document would go to show that the said document contains operative portions purporting to create title and interest in immovable property and therefore, the said document comes within the mischief of Section 17 & 49 of the Registration Act and also under Section 35 of the Indian Stamp Act. Therefore, the trial court is correct in refusing to receive the said documents in evidence.

4.(i). Furthermore, it is pertinent to note that the main purpose for production of the said document is to establish the alleged title of the petitioners and it is the specific evidence of PW1 before the Court and that being the case,



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it cannot be construed as a collateral purpose and therefore, on that ground, the said document cannot be received in evidence. Furthermore, Section 35 of the Indian Stamp Act would be a bar for reception of document for any purpose, if it is not properly stamped. Therefore, the allegations in the affidavit and the grounds in the revision as if the said document is admissible in evidence is untenable and unwarranted. It is also pertinent to note that the conduct of the petitioners also would go to show that their intention is not bona fide and the said document has been created with ulterior motive. The petitioners originally filed a suit on the file of the Additional District Munsif Court, Karaikudi in O.S.No.97 of 2013 and in the said suit, an incomplete Xerox copy of the said document came to be filed. During trial in the said suit, the petitioners who were the plaintiffs in the said suit did not prosecute the said case and the said suit came to be dismissed for default. Thereafter, an application for restoration was filed and the same was allowed. Thereafter, the suit was again posted in the list for trial. At that time, the petitioners filed an application in I.A.No. 280/2013 seeking permission to withdraw the suit with liberty to file a fresh suit on the same cause of action and the said application came to be dismissed by the Court. Thereafter, the petitioners who were the plaintiffs in the said suit did not prosecute the said suit instead, allowed the said suit to be dismissed for default on 22.12.2014. Therefore, the Xerox copy of the alleged partition deed



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which was filed in the said suit which was incomplete was not at all marked.

However, some how the petitioners managed to get certified copy from the Court in respect of a document which was not even marked and grant of certified copy for the unmarked copy by the Court itself is contrary to Civil Rules of Practice. Be that as it may, a fresh suit came to be filed on the same cause of action in respect of the very same property inspite of dismissal of application for withdrawal with liberty to file a fresh suit come to be dismissed by the Court in O.S.No.91/2017 on the file of the Sub Court, Devakkottai and the said suit is clearly barred under Order 2, Rule 2 of C.P.C. In the said suit, an attempt was made to mark the certified copy of the Xerox copy of the unregistered partition deed and marking of the same was objected on our side and it was also pointed out that the said document was incomplete and Page No.4 was not available in the said document and in the said background, the matter was argued and it was reserved for judgement. In the said background, in order to delay the disposal of the case, the applications were filed seeking permission for re-opening the case and for reception of some documents including the alleged deed of partition. The Court below while permitting reception of other documents, refused permission for reception of the alleged deed of partition on the ground that it is un-registered document containing operative recitals as to transfer of title in respect of immovable property. The

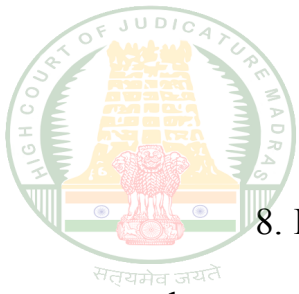


said reasoning of the trial Court which is based on reasoning and after perusal of document, cannot be termed as perverse or without jurisdiction warranting any interference under Article 227 of the Constitution of India.

5. I have considered the submissions made by the learned counsel appearing for the petitioners as well as the learned counsel appearing for the respondents and also perused the materials available on record.

6. The short issue that arises for consideration in this revision petition is as to whether the trial Court was justified in refusing to receive in evidence the third document, viz., the Family Arrangement dated 25.06.1966, on the ground that it is an unregistered document containing operative portions creating title in immovable property.

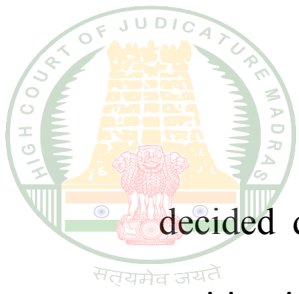
7. It is the specific case of the petitioners that Exhibits A1 to A3 were already marked, but Page No.4 alone was missing. Therefore, the present attempt was only to produce the same document along with the missing page. According to the petitioners, the said document is only a record of a past family arrangement, and hence, being in the nature of a memorandum, it need not be compulsorily registered or stamped.



8. In the present case, the trial Court has outrightly refused to receive the document in evidence on the ground that it is an unregistered document. Such a refusal at the stage of marking, in the considered opinion of this Court, is not correct. The question whether the document is compulsorily registrable, whether it creates or extinguishes rights in immovable property, or whether it is only a record of a past family arrangement, are all matters which can be gone into only during trial. The veracity, admissibility and probative value of the document can be considered at that stage. Outright rejection at the threshold would cause prejudice to the petitioners.

9. In this view of the matter, this Court is of the opinion that the fair and decreetal order of the trial Court in refusing to accept the Family Arrangement dated 25.06.1966 cannot be sustained.

10. Accordingly, the Civil Revision Petition stands allowed. The fair and decreetal order made in I.A.No.5 of 2025 in O.S.No.91 of 2017 on the file of the Subordinate Court, Devakottai, dated 15.07.2025, is set aside insofar as it refused to accept the third document. The trial Court is directed to receive the third document, viz., the Family Arrangement dated 25.06.1966, subject to objections as to its admissibility, veracity and evidentiary value, which shall be



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decided during trial. No costs. Consequently, the connected miscellaneous petition is closed.

11. The respondents are at liberty to raise all objections as to admissibility, veracity and evidentiary value of the said document at the time of trial, and the trial Court shall decide the same on its own merits in accordance with law.

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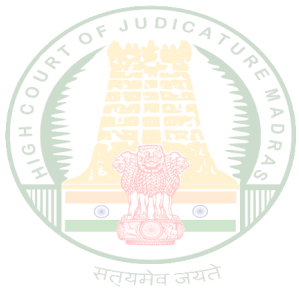
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To

1. The Sub Court, Devakottai.

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



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M.DHANDAPANI, J.

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