



C.R..P.(PD)(MD).No.1885 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.06.2025

CORAM:

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

C.R.P.(PD)(MD)No.1885 of 2021

and

C.M.P.(MD)No.10152 of 2021

A.Subramanian

...Petitioner

Vs.

1.A.Mathiyalagan  
2.Parameswari  
3.Amirthavalli  
4.A.Muthusamy  
5.Govindhammal  
6.Suseela Devi  
7.Nirmala Devi  
8.Dhanasekar  
9.Gopal  
10.K.Maickavasagam  
11.R.Subramanian  
12.R.Murugesan

... Respondents

**PRAYER:** Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair order and decretal order dated 16.09.2021 rendered in I.A.No.3 of 2019 in O.S.No.132 of 2010 on the file of the II Additional District Court, Tiruchirappalli.



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For Petitioner : Mr.K.S.Kathiravan  
For R1 : Mr.K.K.Senthil  
For RR7, 11 & 12 : Mr.P.Arunjayathram  
For R2 to R4 : No Appearance

## ORDER

This Civil Revision Petition is filed challenging the fair and decreetal order dated 16.09.2021 rendered in I.A.No.3 of 2019 in O.S.No.132 of 2010 on the file of the II Additional District Court, Tiruchirappalli.

2.The petitioner is the plaintiff in the suit in O.S.No.132 of 2010 filed for partition. After completion of trial, the fourth defendant/first respondent herein filed an application seeking amendment under Order 6 Rule 17 of CPC in I.A.No.3 of 2019 for inclusion of some property. The said application was allowed. Challenging the same, this Civil Revision Petition is filed.

3.The learned counsel for the petitioner would submit that the petitioner's father namely Amarasamy Goundar died intestate leaving behind the petitioner and his brothers as his legal heirs. Since the property of the said Amarasamy Goundar was not divided among them, the petitioner filed a partition suit as against his brothers by including the properties, which were



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not already partitioned between the family members of the petitioner. In that suit, at the time of argument, the fourth defendant filed an application under Order 6 Rule 17 of CPC for including some of the properties. According to the plaintiff, the properties sought to be impleaded were already released in favour of the petitioner by the fourth defendant himself. However, after relinquishing his share in favour of the petitioner, the fourth defendant filed the application for inclusion of the property. The trial Court without considering all these aspects has allowed the application filed by the fourth defendant.

4.The learned counsel for the first respondent submits that the trial Court after carefully considering the submissions made on either side allowed the petition filed by the first respondent. If the petitioner claims that the first respondent has relinquished his share in favour of the petitioner, the same can be adjudicated before the trial Court in the manner known to law at the time of trial and not by way of this Civil Revision Petition. Hence, he prays for appropriate orders.



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5.Heard the learned counsel appearing on either side and perused the materials placed on record.

6.The facts in the present case are not in dispute. Admittedly, the first petitioner and the defendants 3 to 5 are brothers. The claim of the petitioner is that since there was no partition among them, he filed a suit for partition. He further claims that prior to filing of the suit, the fourth defendant relinquished the share of the fourth defendant in favour of the plaintiff. Even thereafter, the fourth defendant sought to include the said properties also in the partition suit stating that some of the family properties were left out to be included in the partition suit.

7.In a partition suit, inclusion of family properties would not cause any prejudice to the petitioner. If the petitioner claims that the rights of the fourth defendant is relinquished in favour of the petitioner by the fourth defendant himself, the plaintiff can very well establish the same before the trial Court by adducing proper evidence. The trial Court has rightly appreciated all these aspects and allowed the application filed by the first respondent and the same need not be interfered.



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8. Accordingly, this Civil Revision Petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

**23.06.2025**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes / No  
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To

1. The Principal Sub Court, Pudukkottai.
2. The Section Officer,  
Vernacular Records,  
Madurai Bench of Madras High Court,  
Madurai.



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**M.DHANDAPANI,J.**

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