



C.R.P(MD)No.2804 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.01.2025

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)No.2804 of 2024
and
C.M.P(MD)No.15829 of 2024

Seetharaman

... Petitioner / proposed 3rd Defendant

Vs

1.Ramesh Kumar

2.K.M.Subbiah

3.Parvathiammal

... Respondents

Prayer : This Civil Revision Petition is filed under Section 115 of C.P.C., to call for the records pertaining to the impugned fair and decretal order in I.A.No.438 of 2013 in I.A.No.302 of 2013 in O.S.No.219 of 2004 on the file of the learned Principal District Munsif Court, Valliyoor, dated 22.08.2024 and set aside the same by allowing the above Civil Revision Petition.

For Petitioner : Mr.R.Shankar Ganesh

For Respondents : Mr.P.Pratheesh



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ORDER

This Civil Revision Petition is filed to call for the records pertaining to the impugned fair and decretal order in I.A.No.438 of 2013 in I.A.No.302 of 2013 in O.S.No.219 of 2004 on the file of the learned Principal District Munsif Court, Valliyoor, dated 22.08.2024 and set aside the same by allowing the above Civil Revision Petition.

2. The suit in O.S.No.219 of 2004 was filed by the second respondent herein namely K.M.Subbiah, seeking the relief of partition and separate possession against one Parvathi Ammal and Ramesh Kumar. Ramesh Kumar is the first respondent herein. Parvathi Ammal is the third respondent. The suit was preliminarily decreed for partition. In pursuance of the preliminary decree, final decree application was filed in I.A.No.302 of 2011 by the decree holder. Pending the proceedings I.A.No.438 of 2013 was filed by a third party by name Seetharaman who is the revision petitioner herein to implead himself as a party respondent, stating that the plaintiff is his brother and the first defendant is his mother. The suit property originally belongs to a partnership Firm called

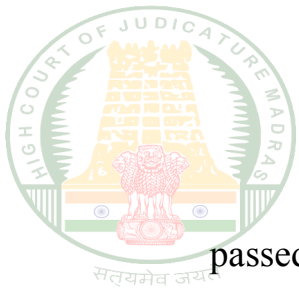


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Mundruiyugam Kondan. During the substance of partnership Firm, Mundruiyugam Kondan died, leaving behind the plaintiff and one Valli who are the children born through the first marriage. The first defendant is the second wife, she had three male children and two female children. Suppressing the above said fact, plaintiff filed a suit for partition for their half share. All the legal representatives of Mundruiyugam Kondan, have 1/8th share. So the preliminary decree itself is not enforceable. So he is a necessary party.

3. That was resisted by the plaintiff by filing counter and as well as the defendants. The final decree Court dismissed the petition holding that commissioner was appointed and filed his report, to prevent the passing of the final decree, the petition is filed at the belated stage. Apart from that the Court has also gone into the merits of the claim made by the revision petitioners. Against which, this Civil Revision Petition is preferred.

4. At the time of hearing, learned counsel for the respondent would submit that final decree application was allowed and final decree was



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passed on 22.08.2024. According to him, the matter has become infructuous.

5. It is seen that no stay order was passed while entertaining the revision petition. The final decree was passed by the trial Court. The only remedy available to the revision petitioner is to file proper appeal. Granting liberty to the revision petitioner, without going to the merits of the claim made by them, this Civil Revision Petition is liable to be dismissed.

6. With the above liberty, this Civil Revision Petition is dismissed, ofcourse, the time taken by the revision proceedings to be deducted while calculating the time period of filing regular appeal against the final decree, under Section 14 of the Limitation Act. No costs.

10.01.2025

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
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G.ILANGO VAN, J.

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To

- 1.The Principal District Munsif, Valliyoor,
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.

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10.01.2025