



C.R.P.(MD)No. 2405 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:11.08.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.[PD](MD)No.2405 of 2022

and

C.M.P.(MD)No.11626 of 2025

Sakthivel

...Petitioner

Vs.

1.Pethayee

2.Muthalu Ammal

3.Mummayee Ammal

4.Deivanai

5.Paappu

6.Subbiah Chettiyar

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal order dated 17.08.2022 passed in I.A.No.1 of 2022 in O.S.No.148 of 2015, on the file of Sub Judge, Kulithalai.



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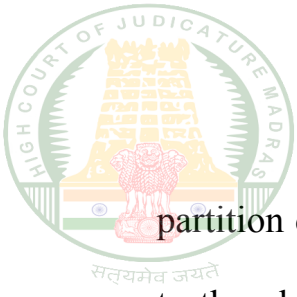
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For Petitioner : Mr.S.Ponsenthilkumaran
For Respondents : Mr.AN.Ramanathan for R1
Mr.K.Manokaran for R6
No Appearance for R2 to 5

ORDER

This petition has been filed seeking to set aside the fair and decreetal order dated 17.08.2022 passed in I.A.No.1 of 2022 in O.S.No.148 of 2015, on the file of the Sub Judge, Kulithalai.

2.Learned Counsel for the petitioner would submit that the petitioner is the fourth defendant in O.S.No.148 of 2015, on the file of the Sub Judge, Kulithalai. The said suit was filed by the first respondent / plaintiff for partition. The suit was filed in the year 2015, whereas the written statement was filed by the petitioner in the year 2016. At the time of trial, the first respondent / plaintiff filed I.A.No.1 of 2022, for amendment of the plaint under Order 6 Rule 17 and Section 151 of CPC, by inserting the additional relief to declare the partition deed dated 30.08.2007 as null and void. However, the said petition has been filed in the year 2022, whereas the petitioner / defendant filed his written statement in the year 2016, specifically pleading that the contents of the



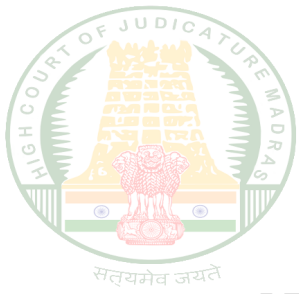
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partition deed including the actual recitals therein were read over and explained to the plaintiff and the fifth defendant even before the execution of the same.

Further that the plaintiff and the fifth respondent have executed the said partition deed dated 30.08.2007 having full knowledge of its contents. Even then, they did not choose to file an amendment petition at the relevant point of time. Thereby, the said petition has been filed beyond three years and the same is hit by Article 58 of Part III of Limitation Act. Even then, the trial Court has allowed the said I.A. Accordingly, he prays for appropriate orders.

3.Per contra, learned Counsel for the first respondent would submit that the first respondent is a poor widow and she is not aware of all those proceedings and only at the time of arguments, she came to know about the partition deed. Thereafter, she filed an amendment petition for amending the prayer seeking to declare the said partition deed dated 30.08.2007 as null and void and the trial Court has passed appropriate orders, which need not be interfered with.

4.Heard the learned Counsel on either side.



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5.The facts in the present case are not in dispute. Admittedly, the suit was filed by the first respondent / plaintiff in the year 2015 and the written statement was filed in the year 2016. It is also an admitted fact that the petitioner has made statements regarding the partition deed dated 30.08.2007. Further, the first respondent / plaintiff having knowledge of the averments in the written statement has filed the impugned I.A.No.1 of 2022, after a lapse of three [3] years, which is barred by limitation. Moreover, the issue raised herein is a triable issue which cannot be decided in a Civil Revision Petition. Hence, the trial Court has erred in allowing the said I.A and the said order is set aside.

6.Accordingly, this Civil Revision Petition stands allowed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

11.08.2025

Internet:Yes/No

Index:Yes/No

MR



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To

1.The Sub Judge,
Kulithalai.

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



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M.DHANDAPANI, J.

MR

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