

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.06.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.109 of 2021

and

C.M.P.(MD).No.8801 of 2021

Nanthakumar @ Balamurugamuthu Ramasamy Naicker

...Petitioner

Vs.

1.Nagasamy

Balamuruganantha Balakrishnan Andivelsamy Naicker (Died)

2.Gowri Rajeswari

3.Veeralakshmi

4.Thangavel @ Boomi Naicker

5.S.Shanmugavelthai

6.R.Jeyalakshmi

7.P.Muthulakshmi @ Maheswari

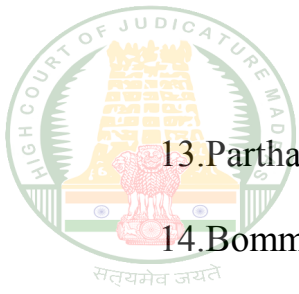
8.Renganayaki

9.Vellaiyammal

10.Umadvei

11.Boomadevi

12.Seenivasan



13.Parthasarathy

14.Bommayee

15.Muthukannu

...Respondents

(Respondent Nos.9 to 13 were brought on record as legal representatives of the deceased first respondent vide Court order dated 16.06.2025 made in C.M.P. (MD).Nos.243, 245 and 247 of 2025 in CRP.(MD).No.109 of 2021)

(Respondent Nos.14 and 15 were brought on record as legal representatives of the deceased fourth respondent vide Court order dated 16.06.2025 made in C.M.P.(MD).Nos.8872, 8883 and 8884 of 2025 in CRP.(MD).No.109 of 2021)

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order dated 01.10.2019 made in I.A.No.244 of 2016 in A.S.No....of 2018 (S.R.No.8810 of 27.10.2015) pending on the file of the learned Principal District Judge, Dindigul.

For Petitioner : Mr.P.Ganapathy Subramaniam

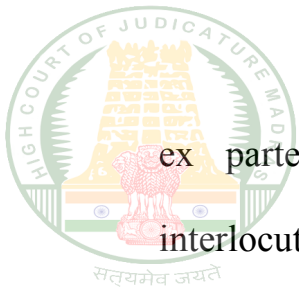
For R-1 : Mr.H.Lakshmi Shankar

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ORDER

This petition has been filed seeking orders to set aside the order dated 01.10.2019 made in I.A.No.244 of 2016 in A.S.No....of 2018 (S.R.No.8810 of 27.10.2015) pending on the file of the learned Principal District Judge, Dindigul.

2. The petitioner, who is the decree holder, filed a suit for partition in O.S.No.575 of 2003 before the learned Sub Judge, Dindigul, which was decreed



ex parte on 30.07.2004. Subsequently, the third respondent filed an interlocutory application in I.A.No.244 of 2016 in A.S.No.... of 2018 (S.R.No. 8810, dated 27.10.2015) before the learned Principal District Judge, Dindigul, seeking leave to file an appeal against the ex parte preliminary decree passed by the learned Principal Sub Judge, Dindigul in O.S.No.575 of 2003, dated 30.07.2004. The said application was allowed by order dated 01.10.2019, and the Office was directed to number the appeal, if it is otherwise in order.

3. The learned counsel appearing for the petitioner would submit that the petitioner is the decree holder, having filed a suit for partition, which was decreed ex parte. However, the first respondent claimed to have purchased the property and filed a third-party appeal by way of an interlocutory application in I.A.No.244 of 2016 in A.S.No.... of 2018 (S.R.No.8810, dated 27.10.2015), seeking leave to file the third-party appeal. The said application was allowed. Challenging the said order, the present Civil Revision Petition has been filed. He would further submit that this Court may direct the first respondent to pay sum of Rs.10,000/- as costs to the petitioner and also issue a direction to the trial Court to number the appeal suit and dispose of the same after providing a opportunity to all the parties concerned.

4. The learned counsel appearing for the first respondent would submit that during the pendency of the Civil Revision Petition, the first respondent



passed away, and the legal heirs of the first respondent / respondent Nos.9 to 13 are willing to pay costs of Rs.10,000/- by filing the necessary impleading application before the lower appellate Court. It is prayed that this Court may graciously permit the impleadment of the legal heirs of the first respondent before the lower appellate Court and direct the said Court to dispose of the first appeal after affording an opportunity to all the parties concerned. It is further submitted that all the grounds available to the parties may be kept open and permitted to be raised before the lower appellate Court.

5. In view of the consent expressed by the learned counsel appearing for the petitioner and the learned counsel appearing for the first respondent, this Court is inclined to dispose of the Civil Revision Petition on the following grounds:

(i). The legal heirs of the first respondent / respondent Nos.9 to 13 are directed to pay a sum of Rs. 10,000/- (Rupees Ten Thousand only) towards cost to the petitioner within a period of two weeks from the date of receipt of a copy of this order. The petitioner shall produce proof of receipt before the Lower Appellate Court.

(ii). Upon such satisfaction, the Lower Appellate Court shall liberally consider the impleading application filed by the legal heirs of the first



respondent and proceed to number the appeal in L.A.No.244 of 2016 in A.S.No. of 2018 (S.R.No.8810/27.10.2015), and after numbering the appeal, dispose of the same after affording an opportunity to all the parties concerned. Liberty is granted to the petitioner to raise all available grounds before the Lower Appellate Court.

No costs. Consequently, the connected miscellaneous petition is closed.

16.06.2025

Internet:Yes/No

Index:Yes/No

TSG

To

1.The Principal District Judge, Dindigul.

2.The Section Officer,

VR Section,

Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI, J.

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