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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2025

CORAM

THE HON'BLE MR. JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD)Nos.3298 of 2023 & 1809 of 2024

and

C.M.P(MD)No.16997 of 2023

C.R.P.(PD)(MD)No.3298 of 2023

Govindammal @ Rajammal

...Petitioner/Petitioner/
Proposed 8th Respondent

Vs

1.Periasamy Gounder ...1st Respondent/1st Respondent/Appellant

Venkitti Gounder (Died)

Subramanian (Died)

2.Ernagan Gounder ...2nd Respondent/4th Respondent/3rd Respondent

Veerathimmammal (Died)

3.Ponnammal

4.Pandian

5.Palanisamy

6.Meenatchi

7.Periasamy ...Respondents 3-7/Respondents 6-10/Respondents 5-9

8.Muthulakshmi

9.Sakkarairaj ...Respondents 8 & 9/Proposed Respondents 8 & 9

(Respondents 8 & 9 are brought on record as LR's of the deceased 1st respondent vide Court order dated 25.04.2025, made in CMP(MD)No.5300 of 2024 in CRP(MD)No.3298 of 2023)



PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 07-08-2023 passed in I.A.No.4 of 2021 in A.S.No.14 of 2017 on the file of the Additional District Judge, Dindigul, and allow the present Civil Revision Petition.

For Petitioner : M/s.J.Anandhavalli

For Respondents : Mr.H.Lakshmi Shankar for R2
Mr.M.R.Sreenivasan for R5
Mr.SP.Vijaynivas for R8 & R9
No appearance for R3, R4, R6 & R7

* * * * *

C.R.P.(PD)(MD)No.1809 of 2024

Govindammal @ Rajammal ...Petitioner/Third Party/Third Party/
Third Party

Vs

1.Ernagan Gounder ...1st Respondent/Petitioner/3rd Respondent/
3rd Defendant

2.Periasamy Gounder (Died) ...2nd Respondent/1st Respondent/
Appellant/Plaintiff

Venkitti Gounder (Died)

Subramanian (Died)

Veerathimmammal (Died) ...Respondents 2-4/Respondents 1,2 & 4/
Defendants 1, 2 & 4

3.Muthulakshmi

4.Sakkarairaj ...Respondents

(Sole petitioner, who is already on record, is recorded as LR of the deceased 2nd respondent and respondents 3 and 4 are also impleaded as LR's of the deceased 2nd respondent as per the order of this Court dated 09.07.2024 made in CMP(MD)No.7504 of 2024 in CRP(MD)SR.No.37425 of 2024)



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PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the memo dated 17-03-2020 filed in I.A.No.55 of 2018 in A.S.No.14 of 2017, on the file of the Additional District Judge, Dindigul, and allow the present civil revision petition.

For Petitioner : M/s.J.Anandhavalli

For Respondents : Mr.SP.Vijaynivas for R3 & R4
Mr.H.Lakshmi Shankar for R1

* * * * *

COMMON ORDER

The respondents in A.S.No.14 of 2017, on the file of the Additional District Court, Dindigul, have filed the present revision petition challenging an order passed in Memo in I.A.No.55 of 2018 on 17.03.2020.

2.One Thonnaga Gounder and Sikkaya Gounder were the sons of the Venkitti Gounder. Wife of Sikkaya Gounder is one Veera Thimmammal, who is arrayed as the fourth defendant in the suit. The legal heirs of the Thonnaga Gounder are Venkitti Gounder, Subramanian, Periasamy and Ernagan Gounder.



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3. One of the sons of Thonnaga Gounder, namely, Periasamy, had filed O.S.No.325 of 1999, seeking partition and separate possession of the property belonging to Sikkaya Gounder. The suit came to be dismissed on the ground that the wife of the Sikkaya Gounder, namely, Veera Thimmammal(D4) was alive. Challenging the same, Periasamy has filed A.S.No.14 of 2017.

4. Pending first appeal, Veera Thimmammal, who was arrayed as the respondent in the first appeal has passed away in the year 2019. A memo came to be filed by the learned Counsel appearing for the appellant that her legal heirs are already on record. Keeping in mind, Venkitti Gounder, Subramanian, Periasamy and Ernagan Gounder, would be class 2 legal heirs of the Veera Thimmammal.

5. One Govindammal @ Rajammal, who is the wife of the Periasamy, has raised an objection to the recording of the memo by the Court on 17.03.2020. According to her, she is a close relative of Veera Thimmammal and she is a class II legal heirs of Veera Thimmammal. Therefore, she should also have been impleaded as one of the legal heirs of the deceased Veera Thimmammal. However, this request of the petitioner was rejected. Since the



objection of the said Govindammal @ Rajammal, was not considered by the Court, the revision petitioner/Govindammal @ Rajammal, has filed I.A.No.4 of 2021, to implead herself as one of the legal heirs of Veera Thimmammal. This application came to be dismissed by the trial Court. Challenging the same, C.R.P.(MD).No.3298 of 2023, has been filed.

6.According to the learned Counsel appearing for the revision petitioner, the said Govindammal @ Rajammal, is a close relative and since Veera Thimmammal has died intestate without any issues, as a class II legal heir, she should have also been impleaded as one of the respondents in the appeal. In the mean time, the husband of the Govindammal @ Rajammal, namely, Periasamy who had filed the appeal as an appellant had also passed away. In the place of Periasamy, Govindammal @ Rajammal, was initially substituted as one of the appellants. Later, other legal heirs of the Periasamy had retained themselves as appellants and Govindammal @ Rajammal, was transposed as one of the respondents in the first appeal. Now, as on today, Govindammal @ Rajammal, is one of the respondents in the first appeal.

7.The grievance of the revision petitioner is that, she has not been impleaded as one of the legal heirs of the Veera Thimmammal being a class II



legal heir. This Court is not inclined to go into the said issue. Whether the revision petitioner would get any share in the property as class II legal heir of Veera Thimmammal or whether she would inherit the share that is likely to be allotted in favour of her husband, Periasamy, has to be decided in the first appeal. In such circumstances, without going into the status of the revision petitioner, this Court is inclined to dispose of the revision petition with the observations that the property rights of the revision petitioner shall depend upon the findings to be rendered by the first appellate Court.

8.CRP(MD)No.1809 of 2024, has been filed challenging recording of Memo in I.A.No.55 of 2018, on 17.03.2020, wherein the first appellate Court has recorded only Venkitti Gounder, Subramanian, Periasamy and Ernagan Gounder as legal heirs of the deceased fourth respondent, namely, Veera Thimmammal. Since this Court has already arrived at a finding that the status of the Govindammal @ Rajammal, and her property rights have to be decided only during the appeal proceedings, this Court is not inclined to set aside the order passed in the Memo. The issue, who are the legal heirs of deceased Veera Thimmammal, has to be decided by the first appellate Court.



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9. With the above said observations, both the Civil Revision Petitions stand disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

25.04.2025

2/2

Internet: Yes/No

Index: Yes/No

RJR

To

The learned Additional District Judge,
Dindigul.

Copy to:-

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



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R.VIJAYAKUMAR, J.

RJR

**C.R.P.(PD)(MD)Nos.3298 of 2023 &
1809 of 2024**

25.04.2025
2/2