

C.R.P.(MD)No.1491 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.07.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.1491 of 2025

and

C.M.P.(MD)No.7490 of 2025

P.Punithavathi

...Petitioner

Vs.

K.Palanisamy Konar (Died)

1.P.Kandavelu

2.P.Ketharnath

3.P.Shanmugam

4.P.Thirugnanasampantham

5.B.Thavamani

6.S.Balasundar

7.Valliammal

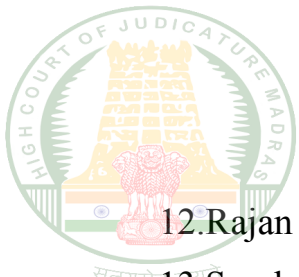
8.Senthilvadivu

9.Srigangai

10.Mallika

11.Thovanya

Vilangaiah (Died)



C.R.P.(MD)No.1491 of 2025

12.Rajan

13.Sundravel

...Respondents

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PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to call for the records in O.S.No.98/2011, pending on the file of the learned V Additional District Judge, Madurai and set-aside the fair and executable order passed in I.A.No.44/2013 dated 23.12.2016 as illegal.

For Petitioner : Mr.C.M.Arumugam

For Respondents : Mr.R.Shanmuga Sundaram

Senior Counsel

for Mr.M.Kannan for R1

Mr.B.Vikram Veerasamy for R2

Mr.S.Chellapandian for R4

Mr.C.Muthu Selvam for R7

Mr.V.S.Sundareshwar for R8 to R10

Mr.S.Ashok for R11

ORDER

This petition has been filed seeking to set aside the order made in I.A.No. 44/2013 in O.S.No.98/2011, dated 23.12.2016, pending on the file of the learned V Additional District Judge, Madurai.

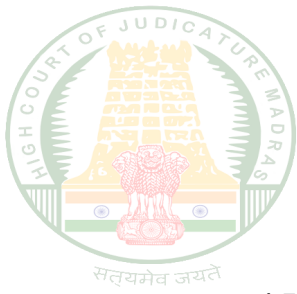


C.R.P.(MD)No.1491 of 2025

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2. Learned Counsel for the petitioner would submit that the petitioner is the plaintiff in O.S.No.98 of 2011. Pending the suit, the petitioner filed I.A.No. 44 of 2013 to implead the respondents 8 to 15 as defendants 8 to 15 in the suit and the said I.A. was dismissed on 23.12.2016. Challenging the same, the present Civil Revision Petition has been filed.

3. Learned Counsel for the petitioner would submit that the newly impleaded defendants 8 to 15 are necessary parties for the disposal of the partition suit. The proposed 8th defendant is the second wife of the first defendant and the remaining defendants namely defendants 9, 10, 11, 12 are the daughters-in-laws of the first defendant and the eighth defendant and wives of defendants 2 to 5. Remaining proposed defendants are the partners of Defendant No.1 in the 'C' schedule property. Unless they are impleaded at the time of final hearing, great prejudice would be caused to the petitioner. However, the trial Court without considering the same, has dismissed the said I.A. Hence, the present Civil Revision Petition has been filed. Accordingly, he prays for appropriate orders.



C.R.P.(MD)No.1491 of 2025

WEB COPY

4.Learned Senior Counsel appearing for the first respondent would submit that the suit was filed in the year 2011 and repeatedly the petitioner filed several I.As and all those I.As were dismissed. In order to prolong the partition suit, the petitioner has been filing several I.As. Admittedly, the I.A. was filed in the year 2013 and the same was dismissed on 23.12.2016. Though the petitioner has filed the present Civil Revision Petition under Article 227 of the Constitution of India as against the I.A. under Order 1 Rule 10(2) of CPC, however, there is no proper explanation for delay in filing the I.A. after nine years. Accordingly, he prays for dismissal of this Civil Revision Petition.

5.Heard the learned Counsel on either side and perused the materials available on record.

6.Order 1 Rule 10(2) of CPC, reads as follows:

“The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court



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C.R.P.(MD)No.1491 of 2025

may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added”.

7. Admittedly, the petitioner filed I.A.No.44 of 2013, to implead the respondents 8 to 15 as defendants 8 to 15 in the suit, however, the said I.A. came to be dismissed. In the case on hand, the dispute is only between the petitioner and the first defendant. The first defendant is the father and defendants 2 to 5 are the brothers of the petitioner. Therefore, share has to be decided only in between them and hence, the remaining parties are not necessary parties. All these facts have been rightly appreciated by the trial Court and hence, the order of the trial Court need not be interfered with.

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

28.07.2025

Internet: Yes/No

Index: Yes/No

MR



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C.R.P.(MD)No.1491 of 2025

To

1.The V Additional District Judge,
Madurai.

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



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C.R.P.(MD)No.1491 of 2025

M.DHANDAPANI, J.

MR

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