



CRP(MD). No.3266 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON 06.11.2025	PRONOUNCED ON 16.12.2025
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THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

**CRP(MD). No.3266 of 2025
and
CMP(MD)No.18006 of 2025**

1.Mrs.U.Venkatalakshmi
2.Mrs.K.Seeniammal ... Petitioners

Vs.

1.Mrs.Radha
2.Vijaya Varshini
3.Minor Divya Dharsini
(3rd respondent represented through her mother and natural Guardian,
the 1st respondent Mrs.Radha) ... Respondents

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 08.09.2025 passed in I.A.No.5 of 2025 on the file of the 1st Additional District Court, Thoothukudi in O.S.No.11 of 2020 and allow the present Civil Revision.

For Petitioner : Mr.R.J.Karthick



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For Respondents: Mr.A.Srinivasan

ORDER

This Civil Revision Petition had been filed against the fair and decreetal order dated 08.09.2025 passed in I.A.No.5 of 2025 on the file of the 1st Additional District Court, Thoothukudi in O.S.No.11 of 2020 and allow the present Civil Revision.

2. Heard Mr.R.J.Karthick, learned counsel appearing for the petitioners and Mr.A.Srinivasan, learned counsel appearing for the respondents.

3. The learned counsel appearing for the petitioners would submit that the respondents herein had filed a Suit certain for a declaration that they are entitled to 3/4th of the share in the Suit Schedule Property and to declare that the gift deed executed by the first respondent in favour of the second respondent in respect of the first item of the suit schedule property is null and void. The petitioners had taken out an application under Order VII Rule 11 to reject the plaint, as the same is barred by the provisions of the Prohibition of Benami Property Transactions Act, 1988 (hereinafter



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referred to as “Act”). He would submit that even as per the plaint averment, the suit is barred by law. However, the Court below without considering the averments made in the plaint which predominantly is on the basis that the suit schedule property had been purchased admittedly in the name of the first petitioner from the monies belonging to the predecessor in interest of the respondent would be barred under Section 4(1) of the Benami Transactions (Prohibition) Amendment Act, 2016, had dismissed the application and not joint family properties, as claimed by the respondents/plaintiffs. Therefore, he seeks indulgence of this Court.

4. Countering his arguments, the learned counsel appearing for the respondents/Caveators would submit that the application filed by the petitioners under Order VII, Rule 11 itself is wholly not maintainable. He would submit that it is the case of the respondents that the properties had been purchased by the first petitioner in her name from and out of the earnings of the husband of the first respondent and father of the respondents 2 & 3. He would submit that it was the intention of the predecessor in interest of the respondents that the properties should be purchased in his name and not in the name of the first petitioner. Having clandestinely



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purchased the property in the name of the first petitioner, the first petitioner had also settled the property in favour of the second petitioner only to deny the benefits of the income that had been derived by the predecessor in interest of the respondents. He would submit that the properties were not purchased by the predecessor in interest in the name of the first petitioner and the first petitioner had chosen to purchase the property in her name itself to deny the benefits.

5. He would further submit that having contested the suit by filing a written statement and also an additional written statement by claiming that the properties are self acquired properties of the first petitioner, the petitioners cannot now turn around to claim that the suit itself is barred by law particularly the provisions of the Act. Hence, he prays this Court to dismiss the Civil Revision Petition.

6. I have considered the submissions made by the learned counsels appearing on either side and perused the materials placed on record.

7. A reading of the plaint would indicate that the



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respondents/plaintiffs had claimed that the suit schedule properties are joint family properties purchased from and out of the monies belonging to the predecessor in interest of the respondent/plaintiff and they had sought for a declaration of their 3/4th share in the suit properties and for a consequential partition of the suit schedule properties and also to declare the gift deed executed by the first petitioner in favour of the second petitioner as null and void.

8. As rightly pointed out by the Court below having taken out a stand in the written statement that the suit schedule properties are the self acquired properties of the first petitioner, the present application had been filed by taking an inconsistent stand that the suit is barred by the provisions of Section 4(1) of the Act.

9. Further it is not the case of the petitioners that the properties had been purchased by the predecessor in interest of the respondents in the name of the first petitioner. It is the claim of the respondents/plaintiffs that the monies that was sent by the predecessor in interest of the respondents had been misapplied by the first petitioner in purchasing the property in her name instead of the



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name of the predecessor in interest. These issues can only be gone into by the Court after recording of evidence of the respective parties and cannot be decided at the present stage by an application under Order VII, Rule 11 CPC.

10. It is not known as to how such a claim is made by the petitioners. This Court is also surprised by the claim made by the petitioners. Had the petitioners been aware of the provisions of the Act, as amended in the year 2016, they would not have attempted to file such an application, if an authoritative finding given by the competent Court that the properties are governed by the provisions of the said Act, then the properties i.e., involved in the suit would be liable for further proceedings under the provisions of the said Act and is also liable to be confiscated by the Government.

11. For the aforesaid reasons, this Court do not find any merits in this Revision and accordingly, the Civil Revision Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.



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16.12.2025

Index : Yes/No
Internet : Yes/No
NCC : Yes/ No
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TO

- 1.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.
- 2.The 1st Additional District Court, Thoothukudi.



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K.KUMARESH BABU,J.

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Pre-Delivery Order in
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