



C.R.P(MD)No.3204 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **03.11.2025**

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

C.R.P(MD)No.3204 of 2025

1.Bethusamy @ Pandiyan
2.Ponuthai
3.Andalammal @ Papathi

... Petitioners/Petitioners/
Plaintiffs

Vs.

Avul Nayakkar (Died)
1.Muthaiah
2.Balamurugan
3.Bethusammy @ Mani
4.Seelamuthu
5.Veluthai
6.Kamaraj
7.Jeyaraj
8.Amaravathi

...Respondents/Respondents/
Defendants

(All the respondents were set exparte and
the reliefs given up as against them)

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, by setting aside the order passed in I.A.No.1 of 2025 in O.S.No.98 of 2015 dated 19.03.2025 on the file of the Additional District and Sessions Court, Periyakulam and allow the review application and to direct the learned Judge to pronounce the judgment on merits.



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For Petitioner : Mr.V.Chandrasekar

ORDER

The present civil revision petition has been filed to set aside the order passed in I.A.No.1 of 2025 in O.S.No.98 of 2015 dated 19.03.2025 on the file of the Additional District and Sessions Court, Periyakulam and allow the review application and to direct the learned Judge to pronounce the judgment on merits.

2.The learned counsel for the petitioners submits that in the suit filed by the petitioners, an order came to be passed on 04.10.2023 directing the petitioners to implead the legal heirs of one Pethi Naicker. He submits that the suit was filed by the petitioners seeking for partition and for other reliefs. The defendants, who have been arrayed as parties, remained *ex parte*. The petitioners' claim in the suit is with regard to the properties of one Pethi Naicker from whom they claim title. The daughters of Pethi Naicker are all aged 80 years and that the properties vested with the petitiones in view of the succession available prior to the Tamil Nadu Amendment Act. 1989 or the 2005 Amendment Act to the



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Hindu Succession Act. Hence, there is no necessity to implead the daughters of Pethi Naicker. Therefore, the said docket order having been passed without consideration of the material facts. Hence, the petitioners filed an application to recall the said order and the same was dismissed by the Court below insisting that the petitioners should implead the daughters of Pethi Naicker. He submits that the petitioners being dominus litus are entitled to choose the parties to the suit and that cannot be a reason to reject the claim of the petitioners. The Court cannot force the petitioners, who are the dominus litus to implead the parties to the suit. Hence, he seeks indulgence of this Court.

3. I have considered the submissions made by the learned counsel for the petitioner and perused the materials available on record.

4. As rightly pointed out by the learned counsel for the petitioners that it is for the plaintiffs to implead the respective parties. If the Court below finds that there is a non joinder of necessary parties, the Court need not grant reliefs as prayed for by the plaintiffs.



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5. In such view of the matter, the impugned order is set aside and the docket order dated 04.10.2023 is recalled. The learned Additional District and Sessions Judge, Periyakulam is directed to dispose of the suit in O.S.No.98 of 2019 on merits and in accordance with law within a period of six months from the date of receipt of a copy of this order.

6. In fine, this Civil Revision Petition stands ordered. There shall be no order as to costs.

03.11.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1.The Additional District and Sessions Court,
Periyakulam.

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



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K.KUMARESH BABU,J.

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