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C.R.P.No.690 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.690 of 2026
and C.M.P.No.3660 of 2026

1.V.Sundaramoorthy

2.Amutha @ Amuthavalli

3.V.Arumugam

... Petitioners

vs.

1.Anusuya Ramani Boopathy,
W/o.Ramani Boopathy,
No.66, Uppukara Street,
Ariankuppam, Pondicherry – 605 007.
Rep. by her Power Agent R.Boopathy, S/o.Ramasamy,
No.11, Drowpathiamman Koil Street,
Ariankuppam, Pondicherry – 605 007.

2.Selva Jaya

3.Ponnammal @ Rajavalli

4.Harikrishnan

5.Periyannan

6.Palanivel

7.Mahalakshmi

8.Moganasunitha, Minor
D/o.Late Rajaraman

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9.Preethika Minor

Respondents 8 and 9 rep. by next friend Mother Mahalakshmi

D/o.Late Rajaraman,

R7 to R9 are residing at

No.1, Pallivasal Street, Thottakkal Main Road,

Karamanikuppam, Mudaliarpeta,

Pondicherry – 605 004.

10.Mohandass

11.A.Sundaramoorthy

12.P.Mandiramoorthy

13.M.Vijayakumar

14.R.Shanmugam

15.R.Ravi

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to strike off the plaint in O.S.No.197 of 2022, now pending on the file of the Principal District Judge, Puducherry by allowing this Civil Revision Petition.

For Petitioners : Mr.S.Subbiah
Senior Advocate
for M/s.Elizabeth Ravi

ORDER

The Civil Revision Petition has been filed seeking to strike off the plaint filed by the 1st respondent in O.S.No.197 of 2022 on the file of the Principal District Judge, Puducherry.



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2. The 1st respondent herein filed a suit in O.S.No.197 of 2022 seeking declaration of her title over the suit properties. She also sought for a declaration that various documents executed by persons mentioned in the prayer from the year 1976 to 2004 were null and void. She also prayed for consequential injunction restraining the defendants from putting up any construction in the suit properties and from creating any encumbrance over the suit properties. The 1st respondent/plaintiff claimed title over the suit properties under two registered Sale Deeds dated 22.02.2001 executed by one Selva Jaya's Principal, Ramani Boopathy in favour of the plaintiff.

3. According to the plaintiff, the suit properties originally belonged to one Annamalai Gounder, who had 6 sons and 2 daughters. One of his sons-Selva Ramalingam represented by his wife-Selva Jaya filed a civil suit in O.S.No.44 of 1973 on the file of the Additional Sub Court, Pondicherry seeking declaration that Sale Deed dated 03.10.1946 in favour of Amurthammal, wife of P.Annamalai Gounder was a Binami and the suit property was 'communitie legal' and for partition of suit properties claiming 1/9th share. In the said suit, preliminary decree for partition was passed in favour of Selva Ramalingam. Thereafter, final decree proceedings were initiated. The final decree was passed on 08.09.1978 in I.A.No.1462 of 1974



allotting 1/9th share. The said Selva Ramalingam filed E.P.No.43 of 1985 and got delivery of the suit property through Court. Subsequently, the wife of the said Selva Ramalingam namely Selva Jaya executed 2 Sale Deeds in favour of the plaintiff, thus, the plaintiff claims title over the suit properties.

4. The petitioners, who were arrayed as defendants 4, 5 and 17 in the suit filed instant civil revision petition seeking to strike off the plaint filed by the 1st respondent/plaintiff.

5. Mr.S.Subbiah, learned Senior Counsel appearing for the petitioners mainly raised two points. Firstly, the learned Senior Counsel submitted that the prayers 2 to 14 in the plaint are relating to the invalidity of the registered documents that came into existence from the year 1976 to 2004 and the present suit had been instituted in the year 2022 and therefore, the suit is barred by limitation. According to him, even if the point of limitation is not set up as a defence by the defendants, by virtue of Section 3 of Limitation Act, 1963, the Trial Court is bound to consider whether the suit prayer is within limitation. He also submitted that the Trial Court ought to have invoked power available under Order 7 Rule 11 (d) of the Code of Civil Procedure and rejected the plaint.



6. Secondly, the learned Senior Counsel appearing for the petitioners submitted that the 1st respondent/plaintiff failed to refer to the earlier suit for bare injunction filed by her in O.S.No.849 of 2009 on the file of the Principal District Munsif, Pondicherry as against the petitioners and also the suits instituted by the petitioners 1 and 3 in O.S.Nos.832 and 841 of 2009 and the appeals in A.S.Nos.11 and 12 of 2020 and A.S.No.6 of 2021. It is also stated that as against the common judgment passed in the appeals, second appeals have been filed before this Court in S.A.Nos.715 and 716 of 2024 and S.A.No.305 of 2025 and the said second appeals are pending. Therefore, according to him, there is a suppression of fact regarding the earlier proceedings by the 1st respondent and therefore, the plaint is liable to be rejected. In support of his submission, the learned Senior Counsel for the petitioners relied on the judgment of the Apex Court in ***Nikhila Divyang Mehta and another vs. Hitesh P. Sanghvi and Others*** reported in (2025) 3 ***MLJ 581 (SC)***.

7. As far as the first contention raised by the learned Senior Counsel appearing for the petitioners is concerned, if the petitioners think that suit is barred by limitation, certainly it is a point covered by Order 7 Rule 11 (d) of the Code of Civil Procedure. Therefore, it is always open to the petitioners



to file an application under Order 7 Rule 11 (d) of the Code of Civil Procedure seeking rejection of the plaint. However, without availing the effective remedy available to the petitioners before the Trial Court, they simply rush to this Court by invoking the supervisory jurisdiction.

8. In ***Virudhunagar Hindu Nadargal Dharma Paribalana Sabai and others vs. Tuticorin Educational Society and others*** reported in ***MANU/SC/1365/2019*** case, the Hon'ble Apex Court categorically held that availability of remedy before the Regular Civil Court is a near total bar for exercise of supervisory jurisdiction by this Court under Article 227 of the Constitution of India. The above view of the Apex Court was followed in latest judgment of the Apex Court in ***P.Suresh vs. D.Kalaivani and others*** reported in ***2026 INSC 121***. The relevant observation of the Apex Court reads as follows:-

“9. From the aforesaid discussion, it would logically follow that the High Court would not only discourage but desist from exercising jurisdiction under Article 227 of the Constitution in respect of a challenge for which a separate, distinct, and specific remedy or statutory provision is available under the statute concerned. Availability of an alternative civil remedy and/or under the CPC shall be treated as complete and near total bar on the High Court to venture to invoke and exercise its power



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available under Article 227 of the Constitution, except where exercise of supervisory jurisdiction becomes absolutely necessary.

10. For all the aforesaid reasons and discussions, this court is of the view that High Court committed a manifest error in exercising its powers under Article 227 of the Constitution to strike down the plaint. It ought to have asked the defendant to take recourse to, in accordance with law, when specific provisions available in the Code of Civil Procedure, 1908 in the nature of Order VII Rule 11. The impugned judgment and order of the High Court, therefore, deserves to be set aside.”

9. Therefore, this Court is not inclined to entertain this revision filed by the petitioners raising question of limitation and the same can be very well raised by filing appropriate application for rejection of the plaint before the Trial Court.

10. As far as the second contention raised by the learned Senior Counsel appearing for the petitioners is concerned, against the judgment rendered in the earlier proceedings, second appeals are admittedly pending before this Court. Therefore, any findings in the earlier suit have not attained finality. Therefore, the finding in earlier suit will not bar the subsequent suit.



Further, as seen from Ground No.11 raised in the Memorandum of Civil Revision Petition, in the common judgment rendered by First Appellate Court in the earlier proceedings, the said Court observed that any finding in the common judgment would not come in the way of filing comprehensive suit for declaration. The present suit has been filed by the 1st respondent seeking declaration of title and other reliefs. Therefore, how for the finding rendered in the earlier suit will bar the present suit, whether it would operate as *res judicata* cannot be decided at this stage based on the averments available in the plaint and the plaint documents.

11. First of all, the findings in the earlier suit should have attained finality and in the case on hand findings in earlier suit have not attained finality. Even if, the earlier findings attained finality, the pleadings of the earlier suit and the judgments etc., have to be thoroughly perused before arriving at any conclusion regarding the *res judicata* and bar created by the earlier findings. Therefore, the second submission made by the learned Senior Counsel appearing for the petitioners is also not acceptable to this Court.

12. In the case law relied on by the learned Senior Counsel for the petitioners in ***Nikhila Divyang Mehta*** case, the defendants filed an



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application for rejection of the plaint and the plaint was rejected by the Trial Court and the said decision was reversed by the High Court. The Apex Court held that the suit was barred by limitation, therefore, High Court committed an error in reversing the order rejecting the plaint. In the case on hand, without resorting to alternative remedy available under Order 7 Rule 11 of the Code of Civil Procedure, petitioners straight away approached this Court. Therefore, the said case law will not be applicable in the light of the ratio laid down by the Apex Court in *Virudhunagar* case cited supra.

13. In view of the discussion made earlier, the Civil Revision Petition stands dismissed with liberty to the petitioners to file an application for rejection of the plaint under Order 7 Rule 11 of the Code of Civil Procedure, if so advised. No costs. Consequently, the connected civil miscellaneous petition is closed.

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Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

The Principal District Judge,
Puducherry.

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S.SOUNTHAR, J.

dm

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