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C.R.P.(PD) No.1435 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-03-2026

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THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

**C.R.P.(PD) No. 1435 of 2026
and C.M.P.No.6909 of 2026**

1. E.Subramanian
2. E.Ramesh
3. E.Mahesh

Sons of Late E.Elumalai Mudaliar,
All are residing at
No.8/14, Kumaraguru 1 Street,
Lakshmipuram, Thiruvannamiyur,
Chennai – 600 041.

4. Mrs.M.Kanchana
W/o. R.Muthu Kumaran,
No.1A, Lakshminagar,
Jafferkanpet, West Saidapet,
Chennai – 600 083.

..Petitioners

Vs.

V.Mohana
W/o. Viswanathan,
31/16, Thiruvallur Street,
Nehru Nagar, Velachery,
Chennai – 600 042.

..Respondent

Prayer: This Civil Revision Petition has been filed under Section 227 of the Constitution of India praying to allow this Civil Revision Petition, set aside the Order dated 04.02.2026 passed in I.A.No.8 of 2025 in O.S.No.4961 of 2020, on the file of XVII Additional City Civil Court at Chennai.

For Petitioners : Mr.P.K.Ganesh



ORDER

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This Civil Revision Petition has been filed by the Petitioners praying to set aside the Order dated 04.02.2026 in I.A.No.8 of 2025 in O.S.No.4961 of 2020 passed by the learned XVII Additional Judge, City Civil Court, Chennai.

2. The brief facts of the case are as follows:

The Petitioners and Respondent are children of one Late E.Elumalai Mudaliar. The said Elumalai Mudaliar had two wives viz., Mallika (1st wife) and Devaki (2nd wife). The 1st Petitioner and Respondent are the children born to his 1st wife and Petitioners 2 to 4 are the children born to his 2nd wife. When the said Elumalai Mudaliar was alive, he purchased a property measuring an extent of 1,393 Sq.ft situated at Plot No.26, Rajalakshmi Nagar, 1st Main Road, Pallikaranai – 600 100 (hereinafter referred to as “suit schedule property”) and constructed a building in the said property. The suit schedule property was registered in the name of Respondent. Therefore, the said Elumalai Mudaliar had requested the Respondent and her husband, Mr.G.Viswanathan to divide the suit schedule property and to allot half share to the 4th Petitioner. Accepting the request of Elumalai Mudaliar, Respondent had entered into a Memorandum of Understanding dated 04.09.1999 with her father, Elumalai Mudaliar. As per the said Memorandum of Understanding, Respondent shall not claim any share in



the suit schedule property at any point of time and the share of 4th Petitioner shall be given to her at the appropriate time. On 10.07.2005, Elumalai Mudaliar had died intestate leaving behind the Petitioners and Respondent as his legal heirs to succeed his estate. After the demise of Elumalai Mudaliar, Petitioners 1 to 3 let out the suit schedule property and they were collecting rents from the tenants. When the Respondent approached the Petitioners 1 to 3 to give her share of rental income, they denied to give the same. Therefore, the Respondent had filed a suit in O.S.No.4961 of 2020 before the City Civil Court, Chennai for the following reliefs:

- (a) To pass a preliminary decree for partition of the suit property into five equal shares for partition and allotting 1/5th share to the Plaintiff and 1/5th share each to the Defendants 1 to 4 and put the Plaintiff in possession of the same.*
- (b) To direct the Defendants 1 to 3 to pay future mesne profits at the rate of Rs.6,000/- per month from the date of plaint to till the date of delivery of possession of the suit.*
- (c) To pay the cost of the suit.*

3. During the pendency of aforesaid suit, the Petitioners had filed an Interlocutory Application in I.A.No.8 of 2025 seeking to summon the witness viz., Assistant Commissioner of Labour (SSS), Chennai to produce the documents viz., Pension Claim Application and Self Declaration of Mr.G.Viswanathan (Respondent's husband) with relevant records pertaining to the said Pension Application. However, the learned XVII Additional Judge, City Civil Court, Chennai vide Order dated 04.02.2026, dismissed the said



Interlocutory Application by holding that issuing summons to the Assistant Commissioner of Labour (SSS), Chennai and production of Pension Claim Application and Self Declaration of Respondent's husband is not at all necessary and not at all relevant for this case. Aggrieved by the said order, the Petitioners have filed this Civil Revision Petition before this Court.

4. The learned counsel for the Petitioners submitted that already the Respondent had entered into a Memorandum of Understanding dated 04.09.1999 with Late Elumalai Mudaliar (father of Petitioners and Respondent), as per which, the Respondent should not claim any share in the suit schedule property at any point of time, but, after the demise of Elumalai Mudaliar, the Respondent is claiming that she is entitled to 1/5th share in the suit schedule property and she had filed O.S.No.4961 of 2020 for partition of the suit schedule property.

4.1. It is further submitted by the learned counsel for the Petitioners that during the Chief Examination of D.W.1 (Deputy Commissioner of Labour), it was deposed by D.W.1 that the Respondent's husband Mr.G.Viswanathan submitted a Pension Claim Application and Self Declaration before the Assistant Commissioner of Labour (SSS), Chennai. The said Pension Claim Application and Self Declaration of Respondent's husband are very essential documents to prove the case of Petitioners and thus, the Petitioners are praying



to summon the Assistant Commissioner of Labour (SSS), Chennai to produce the Pension Claim Application and Self Declaration of Mr.G.Viswanathan (Respondent's husband) along with relevant records pertaining to the said Pension Application.

4.2. The learned counsel for the Petitioners also submitted that now the suit in O.S.No.4961 of 2020 has been posted to 16.03.2026, for Judgment. Therefore, the learned counsel prayed that the Order dated 04.02.2026 passed in I.A.No.8 of 2025 in O.S.No.4961 of 2020 may be set aside and this Civil Revision Petition may be allowed.

5. Heard the learned counsel for Petitioners and perused the materials available on record.

6. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel for Petitioners, I am of the opinion that it is just and appropriate to afford an opportunity to the Petitioners to prove their case. Therefore, this Court is inclined to set aside the impugned order and allow this Civil Revision Petition.

7. Accordingly, Order dated 04.02.2026 in I.A.No.8 of 2025 in O.S.No.4961 of 2020 passed by the learned XVII Additional Judge, City Civil



Court, Chennai is set aside and this Civil Revision Petition is allowed.

Consequently, I.A.No.8 of 2025 in O.S.No.4961 of 2020 is allowed and the

Trial Court is directed to issue summons to the Assistant Commissioner of Labour (SSS), Chennai calling upon him to produce the Pension Claim Application and Self Declaration of Mr.G.Viswanathan (Respondent's husband) along with relevant records pertaining to the said Pension Application.

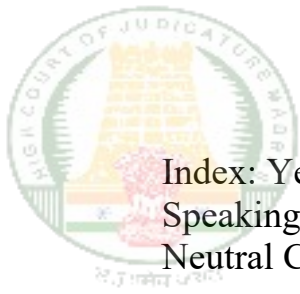
8. It is open to the Respondent to file her Objections/Reply Statement, if any, before the Trial Court.

9. It is made clear that the Trial Court shall deliver the Judgment and Decree in O.S.No.4961 of 2020, only after the receipt of Pension Claim Application and Self Declaration of Mr.G.Viswanathan (Respondent's husband) along with relevant records pertaining to the said Pension Application from the Assistant Commissioner of Labour (SSS), Chennai, by giving fair opportunity to both parties to submit their contentions and then proceed as per manner known to law.

10. This Civil Revision Petition is allowed with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

12-03-2026

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

XVII Additional City Civil Court,
Chennai.



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T.V.THAMILSELVI, J.

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