

C.R.P. No.2013 of.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2026

WEB COPY

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THE HONOURABLE MR. JUSTICE N. MALA

C.R.P.No.2013 of 2026

and

CMP.No.8946 of 2026

1.D.Soundarya Lakshmi
2.K.Annapoorani

... Petitioners

Vs.

1.S.Saravana Babu
2.A.Kathiravan

... Respondents

PRAYER : Civil Revision Petition filed under Section 115 of Civil Procedure Code, to set aside the docket order in Filing No.532 of 2026 in R.E.P.No.19 of 2023 dated 10.02.2026 passed by the learned I-Additional District Court, Salem and accordingly direct that the petition be numbered and taken on file.

For Petitioners : Mr.G.Pugazhenth

ORDER

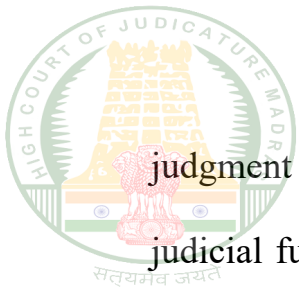
This Civil Revision Petition is filed against the order dated 10.02.2026 passed in REP.No.19 of 2023 on the file of the I Additional District Court, Salem and against the docket order in filing No.532 of 2026.



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WEB COP2. The petitioners filed an application under Order XXI Rule 97 and Section 151 CPC along with a stay petition obstructing the execution of the decree in respect of the petition mentioned property, which is sub judice in a partition suit in OS.No.616 of 2025 before the learned Additional District Judge No.III, Salem. However, the said applications were returned by the docket order dated 19.01.2026 with the endorsement 'Connected petition returned. Hence, this petition is also returned.' Subsequently, the applications were represented; however, on 10.02.2026, despite the said representation, the application filed under Order 21 Rule 97 CPC was returned questioning its maintainability. Aggrieved by the said order dated 10.02.2026, the petitioners have filed the present Civil Revision Petition.

3. The Lower Court returned the papers and by a docket order, questioned the maintainability of the petition. The Lower Court by a ministerial order cannot decide on the maintainability of the petition. The Lower Court is bound to number the petition, post it for maintainability, give an opportunity to the petitioners and thereafter pass judicial orders on maintainability. The procedure adopted by the Lower Court is in clear violation of the dictum of the Hon'ble Supreme Court in 2019 (9) SCC 154. The Hon'ble Supreme Court in the said



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judgment held that the power to decide on the maintainability of a case is a judicial function in the realm of the Court. Since the papers are returned on the ground of maintainability, following the Hon'ble Supreme Court judgment, this Court directs the Lower Court to number the petition, give an opportunity to the petitioners to argue on the maintainability and thereafter, pass appropriate orders as per law.

4. With the above direction, this Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

15.04.2026

Index:Yes/No

Speaking Order:Yes/No

Neutral Citation:Yes/No

dna

To

1. The I Additional District Court, Salem.

2.The Additional District Court No.III, Salem.



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N. MALA, J.

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