

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON
02.04.2026

PRONOUNCED ON
21.04.2026

WEB COPY

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CRP Nos. 2472 to 2474 of 2018
and CMP.No.15185 of 2018

Kunjammal
W/o Gopala Achari

..Petitioner(s) in all
CRPs

Vs

1. Easwari
W/o Arumuga Achari
2. Rathinammal
W/o Madhu Achari
3. Kandasamy
S/o Late Nadesa Achari
4. Sakthivel
S/o Late Nadesa Achari
5. Marimuthu
S/o Late Nadesa Achari
6. Sulochana
W/o Marimuthu, Kolathur

Sivalingam(deceased)

7. Gurusamy
S/o Lakshmana Achari, Oomareddiyur Post,
Andhiyur Tk, Erode Dist
8. Gurunadhi
W/o Late Sivalingam, Oomareddiyur Post,
Andhiyur Tk, Erode Dist
9. Saravanan
S/o Late Sivalingam, Oomareddiyur Post,
Andhiyur Tk, Erode Dist



10. Periyasamy

S/o Late Sivalingam, Oomareddiyur Post,
Andhiyur Tk, Erode Dist

WEB COPY

..Respondent(s) in CRPs

PRAYER in CRP.No.2472 of 2018: Civil Revision has been filed under Article 227 of the Constitution of India, to set aside the Fair and Decreetal order dated 08.01.2018 made in I.A.No. 510 of 2017 in O.S.No.36 of 2012 on the file of Additional District Munsif Court-I, Bhavani and to allow the above Civil Revision Petition.

PRAYER in CRP.No.2473 of 2018: Civil Revision has been filed under Article 227 of the Constitution of India, to set aside the Fair and Decreetal order dated 08.01.2018 made in I.A.No. 511 of 2017 in O.S.No.36 of 2012 on the file of Additional District Munsif Court-I, Bhavani and to allow the above Civil Revision Petition.

PRAYER in CRP.No.2474 of 2018: Civil Revision has been filed under Article 227 of the Constitution of India, to set aside the Fair and Decreetal order dated 08.01.2018 made in I.A.No. 512 of 2017 in O.S.No.36 of 2012 on the file of Additional District Munsif Court-I, Bhavani and to allow the above Civil Revision Petition.

In all CRPs:-

For Petitioner(s): Mr.C.Prabakaran

For Respondent(s): Mr Sai Surjan Tayi for R1
R2 - Died (steps Due)
RR3 to 10 – Served
No appearance



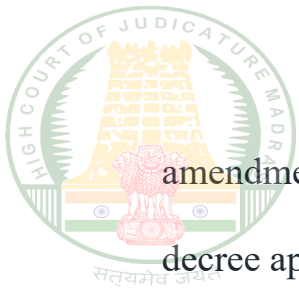
COMMON ORDER

These Civil Revisions have been filed challenging the order, dated 08.01.2018 made in I.A.Nos.510, 511 & 512 of 2017 in O.S.No.36 of 2012 on the file of Additional District Munsif Court-I, Bhavani.

2. Heard, Mr.C.Prabakaran, learned counsel for the petitioner and Mr Sai Surjan Tayi, learned counsel appearing on behalf of the first respondent.

3. The learned counsel for the Petitioner would submit that he had instituted a suit for partition against the Respondents, seeking relief of one-fifth share in the suit property, which was stated to have a measurement of 3 acres. The said suit came to be decreed by a grant of preliminary decree. An application for final decree was also filed.

4. In the said final decree application, an application to appoint an Advocate Commissioner to measure the property and divide the same by metes and bounds was made. After an inspection along with a surveyor, the Advocate Commissioner filed a report stating that the actual extent is about 3.45 acres. In that regard, he also drew a sketch granting a pathway and dividing the property into five equal shares. Hence, it necessitated an application seeking



amendment to the plaint as well as to the preliminary decree and the final decree application.

WEB COPY

5. He would submit that the same was opposed by the Respondents, contesting that it give rise to a new cause of action. He would further submit that the Respondents, who were the Defendants, had also not filed any objection to the report of the learned Advocate Commissioner, and that it had become final. In such an event, when the actual extent of the property is larger than the extent described in the suit schedule, and the Respondents have not denied the title of the predecessor-in-interest in respect of the survey number or the extent, the applications filed seeking amendment to the Plaint, Preliminary Decree, and the Final Decree application ought to have been entertained by the Trial Court. The dismissal causes severe prejudice to the Petitioner. Hence, he seeks indulgence of this Court.

6. Countering his argument, the learned Counsel, who had been appointed by the Legal Services Authority to represent the Respondents under directions of this Court, would vehemently contend that a new property is sought to be introduced in a suit for partition. He would submit that the failure on the part of the Petitioner to describe the property correctly, would not entitle him for an amendment, and if a portion of the property had been left out, he



could very well institute a fresh suit as against the Respondents. As held by the Trial Court in the impugned orders, the amendment is also belated, giving rise to a new cause of action. Hence, he prays this Court to dismiss the revision.

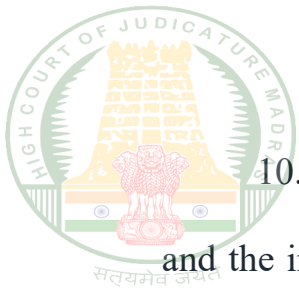
7. I have considered the submissions made by the learned Counsels appearing on either side and perused the materials available on record.

8. It is an admitted case that a suit for partition of a defined property, identifying the same by survey number and boundaries had been made. The Respondents had remained ex parte and a preliminary decree also came to be passed. They had not taken any steps to set aside the ex parte decree or filed an appeal against the ex parte decree. When final decree proceedings came to be filed, in which an Advocate Commissioner was appointed he had filed a Report noting that property had a larger extent. The reading of the Advocate Commissioner's Report discloses that the Respondents had kept themselves away during the inspection by the learned Advocate Commissioner. It is also not borne on record that the Respondents had filed their objections to the Advocate Commissioner's report, as the Advocate Commissioner himself having found the extent to be larger than the suit schedule, he had partitioned the entire larger extent. Only when the Petitioner had taken out an application to amend the Complaint, Preliminary Decree, and the Final Decree application, did



they take out objections contending he has to file a fresh suit with regard to the same. The court below had also rejected the application on the ground that it would give rise to a new cause of action, and such amendment could not be made at a belated stage. Even according to the Respondents, the predecessor-in-interest had a larger extent of property, and certain portions were acquired by the Government, and also there was a partition between the predecessor-in-interest and his brother. The Respondents have not specifically denied that the property does not belong to their predecessor-in-interest, and therefore not available for partition between the parties.

9. The object of Civil Procedure Code is not multiplicity of proceedings among the parties, only for which Order VIII Rule 6A has been introduced. When the Respondents have not disputed the title of the property of their predecessor in interest, this Court does not see any impediment in allowing the application, that too on the facts that the Respondents had not filed any written statement disputing the extent of the property and allowed the suit to be decreed ex parte. Driving a party to litigation to file a separate suit for the left out property will only lead to multiplicity of proceedings which is against public policy as it would only burden the Court unnecessarily.



10. For the aforesaid reasons, these Revision Petitions stand allowed, and the impugned orders in IA Nos.510, 511 & 512 of 2017 are set aside and as a sequel, the said I.A stands ordered. The Plaintiff shall carry out the necessary amendments and file an amended plaint within a period of 4 weeks from the date of copy of this order. Thereafter, the Court below is also directed to pass a final decree on merits and in accordance with law within a period of three months thereafter. Consequently, connected miscellaneous petition is also closed. However, there shall be no order as to costs.

21.04.2026

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

GBA

To

1. Additional District Munsif Court-I,
Bhavani.

2.The Section Officer,
VR Section,
Madras High Court,
Chennai.



WEB COPY

CRP Nos. 2472 to 2474 of 2



K.KUMARESH BABU, J.

GBA

A Pre-delivery order made in
CRP Nos. 2472 to 2474 of 2018
and CMP.No.15185 of 2018

21.04.2026