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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-10-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

Civil Revision Petition Nos.1828 & 1831 of 2025
and
C.M.P.No.10564 of 2025

CNR: {HCMA010802652025}

1. G.Selvaraj
   S/o.Govindhasamy

2. Kalaiselvan
   S/o.Selvaraj

..Petitioners in both revisions

Vs

1. Tamaraiselavi
   W/o.Kalaiyarasan

2. Selvakumar
   S/o.Annamalai

3. Pazhaniyammal
   W/o.Vijayakumar

4. Minor Vijayabharathi @ Ajaykumar
   By Guardian Father of Vijayakumar,

5. Senthilkumari
   W/o.Namachivayam

6. Senthamizhselvi
   W/o.Elangovan

7. Manonmani
   W/o.Annamalai

..Respondents in both revisions

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Civil Revision Petitions filed under Article 227 of the Constitution of India against the impugned order passed in I.A.No.2 of 2025 in O.S.No.26 of 2020 dated 01-03-2025 and I.A.No.1 of 2024 in O.S.No.26 of 2020 dated 24.02.2025 on the file of Additional Subordinate Court, Virudhachalam.

For Petitioners : Mr.R.Rajavelavan
[in both revisions]

For Respondents : Mrs.R.Meenal
[in both revisions] and Mr.T.Sezhian [R1]

No appearance [R2 to R4]

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COMMON ORDER

These civil revision petitions have been filed against the order passed in I.A.No.2 of 2025 in O.S.No.26 of 2020 dated 01-03-2025 and I.A.No.1 of 2024 in O.S.No.26 of 2020 dated 24.02.2025 on the file of Additional Subordinate Court, Virudhachalam, wherein the application filed by first respondent/plaintiff under Order VI Rule 17 CPC seeking amendment of plaint and application filed under Order I Rule 10 CPC to implead the proposed eighth defendant came to be allowed by the Court below.

2. Heard learned counsel on either side and carefully perused the materials available on record. This Court also went through the impugned order.

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3. The first respondent/plaintiff filed the suit in O.S.No.26 of 2020 seeking for the relief of partition and for allotment of 7/36th share in the suit properties. The contest was more focused on the first item of the suit property, which was described as Survey No.18/5A3A. The case was at the stage of examination of witness on the side of first respondent/plaintiff and PW-1 had already been cross-examined on the side of defendants.

4. The first respondent/plaintiff filed I.A.No.1 of 2024 in O.S.No.26 of 2020 under Order I Rule 10 CPC to implead the proposed eighth defendant, who is the son of the seventh defendant on the ground that the seventh defendant had executed a settlement deed in favour of the eighth defendant on 01.09.2017. The first respondent/plaintiff also filed I.A.No.2 of 2025 in O.S.No.26 of 2020 under Order VI Rule 17 CPC seeking for the following amendment:

> "1. வழக்குரை குறந்தலைப்பில் 7ம் எதிர்வாதி பெயருக்கு பிறகு (8) கலைச்செல்வன் (வ.ம.1/2024ல் 24.02.2025ல் ஏற்பட்ட உத்திரவின்படி சேர்க்கப்பட்டார்) என சேர்க்க வேண்டும்.
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> 2. வழக்குரை நெடுந்தலைப்பில் 7ம் எதிர்வாதி விலாசத்திற்கு பிறகு
> 8) இந்நீதிமன்ற நிலவரை அதிகார வரம்பிற்குட்பட்ட, விருத்தாசலம் வட்டம், பெரியகாப்பான்குளம் மதுரா பி.கே.வீரெட்டிக்குப்பம் கிராமத்தில், எண்.13/4ல் வசிக்கும் செல்வராசு குமாரர், இந்து, பயிர், சுமார் 22 வயதுள்ள கலைச்செல்வன் (வ.ம.1/2024ல் 24.02.2025ல் ஏற்பட்ட உத்திரவின்படி சேர்க்கப்பட்டார்) - என சேர்க்க வேண்டும்.
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> 3. வழக்குரை பத்தி 5-க்கு பிறகு 5(அ) ஆக சேர்க்க வேண்டியது

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5(அ) வழக்கு முதலினச் சொத்தை 7ம் எதிர்வாதி அவரது மகனான 8ம் எதிர்வாதிக்கு அறுதியாவணம் எழுதி கொடுத்துள்ளதாக எதிர்வழக்குரையில் தெரிவித்துள்ளார். 7ம் எதிர்வாதிக்கு வழக்கு 1வதுஇனச்சொத்தை கிரையம் கொடுத்தவர்களுக்கு முழு உரிமையும் கிடையாது. 7ம் எதிர்வாதி வழக்கு முதல் சொத்தை சொத்து சுவாதீனம் அடையவில்லை. பின்னிட்ட விவகாரங்களை தவிர்க்க 8ம் எதிர்வாதியை வழக்கில் தரப்பினராக சேர்க்க வ.ம.1/2024 தாக்கல் செய்யப்பட்டு அம்மனு 24.02.2025ல் அனுமதிக்கப்பட்டது. அதனடிப்படையில் 8ம் எதிர்வாதி இவ்வழக்கில் தரப்பினராக சேர்க்கப்பட்டார்.

4. வழக்கு 1வதுஇனச்சொத்தை தற்போதுள்ளதை நீக்கி விட்டு கீழ்க்கண்டவாறு திருத்தம் செய்ய வேண்டும்.

அ.பு.ரி.ச.18/5ஏ3பி-ல் 0.51.0 ஏர்சில் கீழ்புறம் 55 செண்ட் சக்குபந்தி

மைனர் அருன்குமார் நிலத்திற்கும் (தெற்கு) ஓடைக்கும் (மேற்கு), பாதைக்கும் (வடக்கு), 7ம் எதிர்வாதி கிரையம் பெற்ற 74 செண்டிற்கும் (கிழக்கு) மதிப்பு ரூ.95,475-00

5. வழக்குரை உபய வாதிகள் விலாசத்தில் 7ம் எதிர்வாதி விலாசத்திற்கு பிறகு

8) கலைச்செல்வன் ஏண்.13/4, பி.கே.வீரெட்டிக்குப்பம்,
த/பெ.செல்வராசு பெரியகாப்பான்குளம் மதுரா
விருத்தாசலம் வட்டம்
கடலூர் மாவட்டம்.

- என சேர்க்க வேண்டும்."

5. The Court below passed an order in I.A.No.1 of 2024 in O.S.No.26 of 2020 by allowing the application and by impleading the proposed eighth defendant as a party to the proceedings based on the settlement deed executed by the seventh defendant in favour of the eighth defendant. However, insofar as the amendment application is concerned, the Court below did not pass considered order and the Court below had merely passed an order to the effect that already the application filed under Order I Rule 10 CPC was allowed and hence, this application is also allowed.

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Order QR

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6. The above procedure adopted by the Court below, on the face of it, is illegal. The crux of the issue involved in the present case is as to whether the property settled by the seventh defendant in favour of the eighth defendant was part of the suit property. As per the plaint, the first item of the suit property was shown as Survey No.18/5A3A. In the affidavit filed in support of the application in I.A.No.2 of 2025 in O.S.No.26 of 2020, a stand has been taken to the effect that Survey No.18/5A3B is part of the first item of the suit property. However, while claiming for amendment, the first respondent/plaintiff wants to delete the first item of the suit property, which is Survey No.18/5A3A and wants to show Survey No.18/5A3B as the first item of the suit property along with boundaries. The Court below has not even applied its mind as to whether the property settled by the seventh defendant in favour of the eighth defendant formed part of the suit property. The Court below also did not apply its mind as to whether Survey No.18/5A3B is part of Survey No.18/5A3A. Thus, the Court below merely went by the settlement deed executed by the seventh defendant in favour of the eighth defendant without finding as to which property was actually settled by the seventh defendant in favour of the eighth defendant. The Court below presumed that the property settled in favour of the eighth defendant also forms part of the suit property. In view of the same, the order passed by the Court below suffers from perversity warranting interference of this Court.

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Order QR

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7. The Court below has allowed the application in I.A.No.2 of 2025 in O.S.No.26 of 2020 filed under Order VI Rule 17 CPC even without any discussion by stating that since the application filed under Order I Rule 10 CPC has been allowed, as a consequence, the amendment application also stands allowed. On the face of it, such an order passed by the Court below is illegal and perverse.

8. Accordingly, the order passed in I.A.No.2 of 2025 in O.S.No.26 of 2020 dated 01-03-2025 and I.A.No.1 of 2024 in O.S.No.26 of 2020 dated 24.02.2025 on the file of Additional Subordinate Court, Virudhachalam, is set aside. The matter is remitted to the file of the Additional Subordinate Court, Virudhachalam and the Court below is directed to apply its mind to the applications filed in I.A.Nos.1 of 2024 and 2 of 2025 in O.S.No.26 of 2020 and after affording opportunity to both parties, pass orders in these interlocutory applications in accordance with law within a period of four (4) weeks from the date of receipt of a copy of this order. It is made clear that any observations made in the present revisions will not have any bearing when the Court below deals with the applications afresh on merits.

9. Considering the fact that the suit is of the year 2020, the Court below is directed to dispose of the suit within a period of six (6) months from the date of receipt of a copy of this order.

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In the result, these civil revision petitions are allowed in the above terms.

No costs. Consequently, connected miscellaneous petition is closed.

29-10-2026

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

To
The Additional Subordinate Court,
Virudhachalam.

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N.ANAND VENKATESH, J.

gm

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29-10-2026

https://www.mhc.tn.gov.in/judis