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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-11-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CRP No. 2281 of 2024

CNR:{HCMA010836622024}

and

CMP No. 12016 of 2024

Case QR

1. M. Muthusamy
2. M.Venkateswaran
3. R.Valarmathi

..Petitioners

Vs

1. M. Kandasamy
2. M.Palaniammal
3. A.Muthusamy

..Respondents

PRAYER: This Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order dated 04.03.2024 made in I.A.No. 2 of 2023 in O.S.No.171 of 2014 on the file of the Learned Principal District Munsif Court, Tiruchengode by allowing this Civil Revision Petition.

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For Petitioner(s): Ms. M.Adhishree for N.Manoharan

For Respondent(s): Mr.S.Vijayakumar for R1
R2 and R3 – No appearance

Order

This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the fair and decretal order dated 04.03.2024 passed in I.A.No.2 of 2023 where in the application filed by the petitioners/plaintiffs under Order VI Rule 17 of Civil Procedure Code for amendment of plaint, came to be dismissed by the Court below.

2. Heard the learned counsel appearing for the 1st respondent. Notice has been served to the other respondents and the names have been printed in the cause list. There is no representation on the side of other respondents.

3. This Court has perused the materials available on record and carefully gone through the order passed by the Court below.

4. The petitioners are the plaintiffs who filed the suit in O.S.No.171 of 2014 seeking for the relief of partition and for allotment of 1/3rd share in the suit property.

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5. The petitioners/plaintiffs realized that the suit property has not been properly described and some of the necessary parties have not been impleaded. Therefore, they filed two applications – one application is to implead the necessary parties and the other application is to withdraw the same suit with a leave to file a fresh suit on the same cause of action.

6. The Court below disposed of the application filed under Order XXIII Rule 1(3) in I.A.No.163 of 2017 by order dated 05.07.2023 with an observation that the petitioners/plaintiffs can as well seek for necessary amendment in the plaint and they need not withdraw the suit.

7. Pursuant to the above order, I.A.No.2 of 2023 came to be filed by the petitioners under Order VI Rule 17 of CPC seeking for the following amendment.

"*1. In the plaint para no.5 delete "the plaintiffs are having undivided 1/3 share, the 1st defendant is having undivided 1/3 share and the 2nd and 3rd defendants, who are the husband and wife, jointly having undivided 1/3 share" and add as "The plaintiffs are* ***having undivided 1.57 ½ acres, the 1st defendant is having undivided 1.18 acres and the 2nd and 3rd defendants, who are husband and wife jointly having undivided 1.15 acres****"*

*2. In the plaint para no.6 delete the word "1/3 share" add as "****undivided 1.57 ½ acres****" and also amend so wherever the word 1/3 share occurs.*

3. In the court fee column delete "Value of plaintiff's 1/3 share and add as "plaintiff's undivided 1.57 ½ acres" and delete the value of "Rs.25,000/-"

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and add as "Rs.30,250/-"

4. In the prayer column amend the prayer a.) as ***"Dividing the plaintiffs' share of 1.57 ½ acres in the suit property and allot the same to the plaintiffs and put the plaintiffs in separate possession"***

5. In the description of property delete ",jpy; thjpfspd; 1-3 kjpg;g[U:/25,000/- and add as ",jpy; thjpfspd; 1.57 ½ Vf;fu; kjpg;g[U:/30,250/-"

8. The Court below has dismissed this application mainly on the ground that even before the partition, the plaintiff cannot seek for a particular extent of property by way of an amendment and as against the dismissal of the application, the present revision has been filed before this Court.

9. It is brought to the notice of this Court that till date the impleading petition is pending and even the pleadings have not been completed in the main suit.

10. In the considered view of this Court, considering the grievance expressed by the petitioners/plaintiffs who want to properly describe the property with the exact extent and also want to include the necessary parties in the suit and considering the fact that the pleadings itself has not been completed, it will be more appropriate if the petitioners/plaintiffs are permitted to file a fresh suit seeking for the relief of partition by properly describing the suit schedule and include all the necessary parties as

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defendants. As and when any such suit is filed, it will always be left open to the defendants to take their defense and agitate the suit.

11. In light of the above discussion, the petitioners/plaintiffs shall be permitted to withdraw the suit in O.S.No.171 of 2014 on the file of the Learned Principal District Munsif Court, Tiruchengode and they shall be permitted to file a fresh suit which shall be dealt with on its own merits and in accordance with law.

12. In result, this Civil Revision Petition is disposed of in the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

04-11-2026

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

ksk

To
The Principal District Munsif Court, Tiruchengode

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N.ANAND VENKATESH J.

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