



WEB COPY

CRP No. 2002 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-06-2026

CORAM

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

**CRP No. 2002 of 2025
and CMP.No.11521 of 2025**

Guna @ Aranganathan
S/o. Lakshmana Mooppar, Thenchettiyenthal
Village, Chinnasalam Taluk, Kallkurichi District.

..Petitioner(s)

Vs

Minor Athiyaman (Died), Selvi
W/o. Guna @ Aranganathan, Thenchettiyenthal
Village, Chinnasaelam Taluk, Kallkurichi District

..Respondent(s)

PRAYER

Civil Revision Petition filed under Article 227 of Constitution of India, praying to allow this CRP by setting aside the fair and decreetal dated 21.01.2025 made in EA No. 223 of 2023 in EP No. 72 of 2021 in OS No. 26 of 2003, on the file of the Learned District Munsif Judge, Kallakurichi.

For Petitioner(s):	MR.B.Manimaran
For Respondent(s):	MR.P.Pandiyaraj

ORDER

The Civil Revision Petition is filed challenging the impugned order passed by the Trial Judge in E.A. No.223 of 2023, the defendant has preferred the present revision.

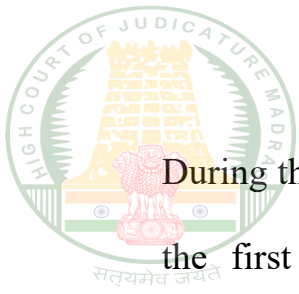


2. Before the Trial Court, he filed an application in E.A. No.223 of 2023 praying for 1/8th share in the half share allotted to the decree holder by filing an application under Section 47 CPC. The said application was dismissed by the Executing Court after hearing both sides. Aggrieved by the same, the present revision has been filed.

3. The learned counsel submits that, during the pendency of the proceedings, the original plaintiff, who is the son of the petitioner, died, due to which he is entitled to a share in the property. Therefore, he sought allotment of 1/8th share by filing an application under Section 47 CPC.

4. However, on perusal of the records, it reveals that originally the suit was filed by the minor son, Athiyaman, son of the petitioner, represented by his mother in O.S. No.26 of 2003, seeking half share in the entire suit property. The suit was contested by the defendant and, after hearing both sides, the Trial Judge granted half share in the property by way of a preliminary decree in respect of Items 1, 2, 3, 7 and 8.

5. Thereafter, a final decree application was initiated by the plaintiff, wherein a final decree was also passed by the Trial Judge in I.A. No.22 of 2011. Subsequently, E.P. proceedings were initiated to execute the final decree. At present, E.P. No.72 of 2021 has been filed by the mother of the minor son.



During the pendency of the proceedings, the minor son died, and as a legal heir, the first wife of the petitioner is proceeding with E.P. No.72 of 2021.

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6. While delivery of possession was being effected, the petitioner/judgment debtor/father of the minor filed the present application seeking amendment of the decree. However, as per Section 8 of the Hindu Succession Act, the mother is also a Class-I heir, and since half share had already been allotted to the share of the respondent, the mother alone is entitled to the share belonging to the deceased minor son.

7. Furthermore, the revision petitioner contracted a second marriage with one Vijaya Kumari and begot a child. In order to provide property to the second wife and child, he has come forward with the present application. Therefore, the Trial Judge rightly held that, if at all the petitioner wants to give any share to the second wife and child, the same has to be given from the half share allotted to him and not from the half share allotted to the plaintiff.

8. Therefore, the reasons assigned by the Trial Judge require no interference. There is no merit in the petition. Accordingly, this Civil Revision Petition is dismissed.



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T.V.THAMILSELVI, J.

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9. The Executing Court is directed to dispose of the E.P. within a period of three months from the date of receipt of a copy of this order. Since the case was filed in the year 2008 and, so far, neither the preliminary decree nor the final decree has been challenged by the respondent, the Executing Court shall expedite the proceedings. No costs. Consequently, the connected miscellaneous petition is closed.

04-06-2026

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

MPA

To

1. The District Munsif Judge, Kallakurichi.
2. The Section Officer, VR Section, High Court, Madras.

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