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CRP No. 2137 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON
18.03.2026

PRONOUNCED ON
20.04.2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CRP No. 2137 of 2020
and CMP.No.13559 of 2020

Ramesh
S/o. (late) Radhakrishnan Naidu

..Petitioner(s)

Vs

1. Venkatesh
(Quondam Minor) (Declared as major in
I.A.No.489/2010, Dt.21.02.2011)

T.Radhakrishna Naidu (Died)
Lrs already on record

2. T. Ramachandran (Died)
S/o. Thambiah Naidu.

3. T. Govindaraj
S/o. Thambiah Naidu.

4. R. Jayachandra Mouli
S/o. Mr. Radhakrishnan Naidu.

5. Rangarajan
Chairman, Veltech Group Of Companies,
Residing at No.38, A.B.M. Avenue,
Raja Annamalaipuram, Chennai-600 028.

6. Sujatha
W/o. Rajasekar.

7. A. Nagabhushanam

Rojammal (died) L.R.S. already On Record.



8. A. Janardhanam
S/o. Ankamma Naidu.

9. A. Nagasami
S/o. Ankamma Naidu.

10. R. Vasumathi
D/O. T. Ramachandran.

11. R. Chamundeeswari
D/O. T. Ramachandran.
*(Respondent-2 Died.
Respondents 10 and 11 brought on record as
LRs of the deceased R-2 Viz
T. Ramachandran vide court order
dated. 24/01/2023 made in CMP No. 1409 of
2023 in CRP No. 2137 of 2020).*

..Respondent(s)

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair order and decretal order dated 18.03.2020 made in IA No.3 of 2020 in OS No.10 of 2006 on the file of Additional District Court- I, Thiruvallur.

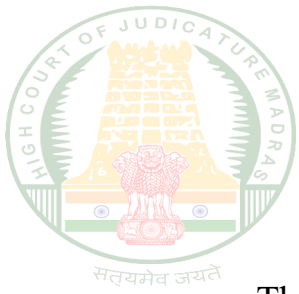
For Petitioner(s): Mr. Haja Nazirudeen
Senior Counsel
assisted by Mr. P. Haribabu

For Respondent(s): Mr. Dhanaram Ramachandran for R1
for M/s. D.R. law Chambers

R2 - Died (steps Taken)

RR-3 to 7 & 9 – No appearance

RR8, 10 & 11 – Not ready in notice

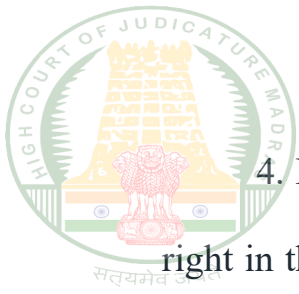


ORDER

The present Civil Revision Petition has been filed challenging the order dated 18.03.2020 made in IA No.3 of 2020 in OS No.10 of 2006 on the file of Additional District Court- I, Thiruvallur.

2. Heard Mr.Haja Nazirudeen, learned Senior Counsel assisted by Mr.P.Haribabu, learned counsel for the petitioner and Mr.Dhanaram Ramachandran, learned counsel appearing for M/s.D.R.law Chambers on behalf of the first respondent. Appearance of the other respondents are considered not necessary as the present *lis* with regard to a rejection of Order VII Rule 7 application in respect of their suit that has been filed by the first respondent alone.

3. Mr.Haja Nazirudeen, learned Senior Counsel appearing for the Petitioner would submit that in a suit filed by the first Respondent for partition, the Petitioner had been arrayed as the 7th Defendant. The first Respondent is the son of the 4th Defendant in the suit, who had a strained relationship with the mother of the first Respondent, and the marriage was also dissolved by way of a decree of divorce granted as early as in the year 2004.



4. He would submit that the first Respondent/Plaintiff does not have any right in the property shown in the suit-scheduled property. Apart from that, he had not described the suit property by its metes and bounds. The first Respondent initiated the suit without any cause of action for the reliefs that had been sought for, and the suit is nothing but a fishing expedition.

5. He would further submit that even assuming that the decree is granted in favour of the first Respondent, as there is no description as required under Order VII, Rule 3, the decree becomes un-executable. He would submit that the first Respondent was not in joint possession of the property, and therefore, the suit itself has also not been valued properly. Hence, he had taken out an application to reject the plaint under Order VII, Rule 11, and the same came to be dismissed, holding that there are triable issues as the Plaintiff made out a cause of action.

6. As regards the payment of court fee, without giving a finding as to whether the first Respondent was in possession of the property by way of constructive possession, it was held that the suit had been properly valued. He would submit that the findings rendered on both the issues are without

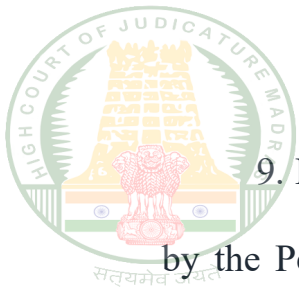


appreciation of the facts, more particularly on the plaint averments, and therefore seeks indulgence of this Court.

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7. Countering his argument, the learned counsel appearing on behalf of the first Respondent/Plaintiff, would contend that the first Respondent initiated a suit in respect of the properties of which he is a co-parcener, as the properties devolved on the parties to the suit by way of inheritance of the ancestral properties. He would submit that just because his mother, who was the wife of the fourth Defendant, had suffered a decree of divorce, the right of the first Respondent, who is the son of the fourth Defendant, cannot be negated without a full-fledged trial.

8. He would submit that nowhere the Petitioner or the other Defendants had disputed the relationship of the first Respondent with the fourth Defendant, and that a DNA report had also confirmed that the first Respondent/Plaintiff is the son of the fourth Defendant. He would further submit that even assuming that there was a deficit court fee, the same could also be rectified at the end of the trial, if the Court comes to the finding that the first Respondent was not in constructive possession, and could be directed to deposit the court fee.



9. Hence, he would submit that on both the grounds that had been raised by the Petitioner, who was the 7th Defendant, do not deserve consideration, and the court below had rightly rejected the same. He would further submit that the attempt is nothing but a ruse to protract the proceedings to defeat the valuable rights of the first Respondent/Plaintiff, hence he seeks dismissal of the revision.

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

11. Admittedly, in a suit for partition, an application to reject the plaint had been taken out on the premise that the Plaintiff had not made out a cause of action for the reliefs that had been claimed for. The suit had been under valued and the property had not been described for the decree to be executed.

12. As rightly pointed out by the learned. Counsel appearing for the Respondent, if the constructive possession of the first Respondent had been disproved, even then, the first Respondent/Plaintiff can be called upon by the Court to make good the deficit court fee, only upon which the decree would be drafted. It is also to be noted that the court below had given a categorical



finding that from the averments made in the plaint, there is a claim for constructive possession. Therefore, based upon the pleadings in the written statement or in the application filed under Order VII, Rule 11, the averments in the plaint cannot be disregarded to reject the plaint under Order VII, Rule 11.

13. The relationship between the parties cannot also now been gone into as the fourth Defendant, who is the father of the Plaintiff, had not disputed the paternity. The seventh defendant/ petitioner, who is the brother of the 4th Defendant, cannot be allowed to dispute the same. The court below had also given a categorical finding that on the basis of the suit averments, the Plaintiff is presumed to be in joint constructive possession of the suit property, and there has been sufficient compliance of Order VII, Rule 3.

14. A reading of the plaint also would indicate there is sufficient cause of action to be proceeded with, and for the averments made in the written statement and the application under Order VII Rule 11, the plaint cannot be rejected, as it is a trite law that a plaint could be rejected only based on the averments made in the plaint and not otherwise.



15. For the aforesaid reasons, this Court does not find any material error in the impugned order and accordingly, the Civil Revision Petition fails and is dismissed. Consequently, connected miscellaneous petition is also closed.

However, there shall be no order as to costs.

20.04.2026

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

GBA

To

1. The Additional District Court- I, Thiruvallur.

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



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K.KUMARESH BABU, J.

GBA

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