



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 18.02.2026

Pronounced on: 27.02.2026

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THE HONOURABLE MR.JUSTICE P.B.BALAJI

**CRP. Nos.3316 and 3251 of 2024
and CMP. Nos.17750 and 17374 of 2024**

CRP. No.3316 of 2024

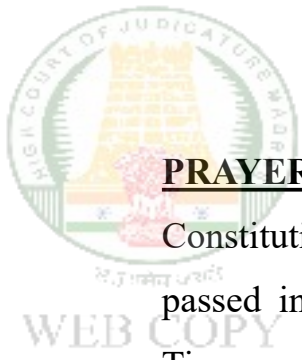
1.S.Muthu
2.P.Vijayarangam

Petitioners

Vs

1.Saraswathi
2.Mahant Basant Dass Bavaji Chelal,
Baba Lakshmandas, Uthasi Sadhu,
by its Madathipathi- Sivkanchi,
Udasi Mutt, Sivakanchi,
Kancheepuram, by Madathipathi,
Sri Surjan Prakash Bavaji.
3.Kasiammal
4.Pandian
5.Vinayagam
6.Deepa
7.Kalaivani
8.Lakshmiammal
9.Gowriammal
10.N.Sivaprakasam (died)
11.A.Chitra
12.Uma Maheswari
13.Usha
14.Suresh Kumar
15.Anandhi
16.Kanagasabapathy
(R13 to R16 are brought on record as
LRs of the deceased R10, vide order
dated 15.10.2024)

Respondents



PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 17.08.2023 passed in Tr.O.P. No.78 of 2022 on the file of the Principal District Court, Tiruvannamalai.

CRP. No.3251 of 2024

S.Muthu

Petitioner

Vs

1.Saraswathi
2.Kasiammal
3.Pandian
4.Vinayagam
5.Deepa
6.Kalaivani
7.Lashmiammal
8.Gowriammal
9.Mahant Devidas,
Uthasi Sadhu,
by its Madathipathi- Sivkanchi,
Udasi Mutt, Sivakanchi,
Kancheepuram, by Madathipathi,
Sri Surjan Prakash Bavaji.

.... Respondents

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and final order dated 21.06.2024 passed in E.A. No.1 of 2023 in E.P. No.13 of 2015 in O.S. No.176 of 1999 on the file of the Principal Sub Court, Tiruvannamalai.

For Petitioners : Mr.Govi Ganesan in both CRPs
For Respondents : Ms.M.Abbiraami
for Mr.P.Dinesh Kumar
for R8, 9, 11 & 12
No Appearance for R1, R4, R7
R3, R5, 6- Unclaimed
R10-Died, R2-Left.



COMMON ORDER

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CRP. No.3316 of 2024 has been filed challenging dismissal of the Tr.O.P. seeking to transfer E.P. No.13 of 2015 to be jointly tried with O.S. No.103 of 2021 and CRP. No.3251 of 2024 has been filed challenging a dismissal of Application of E.A. No.1 of 2023 under Section 10 of CPC for stay of the proceedings pending the disposal of suit filed by the petitioners in in E.P. No.13 of 2015 in O.S. No.176 of 1999, on the file of the Principal Sub Court, Tiruvannamalai. The Transfer OP as well as Section 10 CPC application came to be dismissed, as against which these two revision petitions have been filed.

2. I have heard Mr.Govi Ganesan, learned counsel for the revision petitioners in both these revision petitions and Ms.Abirami, learned counsel for Mr.Dineshkumar, learned counsel for the contesting respondent in both these revisions.

3. Mr.Govi Ganesan, learned counsel for the revision petitioners states that suit property pertains to an extent of 50 cents in Tiruvannmalai Town and the father of the first respondent claimed to be a lessee and in respect of title to the subject property between the lessor and Sivakanchi Mutt, there was a civil dispute which ultimately ended in favour of the Mutt and against the lessor of the respondent's predecessor in interest. Mr.Govi Ganesan, learned counsel



would state that the property has been sold to the revision petitioner by the Mutt and thus the revision petitioners have become the absolute owners of the subject property. He would however state that despite having lost the title suit, the father of the first respondent filed a suit for partition including the subject property behind the back of the Mutt and obtained a preliminary decree on 19.12.2002 and a final decree was also obtained in July 2006 and the said final decree application has been put to execution in E.P. No.13 of 2015.

4. It is the specific case of learned counsel Mr.Govi Ganesan, that when the lessor of the first respondent did not have any title and the Court has also upheld the adversary's title, the first respondent could not have proceeded to seek for partition of the subject property and deprived the lawful owners of their legitimate right to title as well as enjoyment of the subject property. He would therefore state that only under circumstances, these applications were filed. He would also bring to my notice that despite directions issued by this Court, on multiple occasion to expeditiously dispose of E.P. No.13 of 2015, conscious of these orders, this Court granted interim stay at the time of admission of the revision petition, only on the ground that the petitioners are the absolute owners and the act of the respondents in filing a suit for partition including the property in which even the lessor did not have any right was wholly unsustainable. He would therefore pray for the revision being allowed.



5. Per contra, Ms.Abirami, learned counsel for the contesting respondents would state that the final decree was passed even in the year 2006 and the Execution Petition itself came to be filed in 2015 and was even ordered in the year 2019. This Court has specifically directed the Execution Proceedings to be disposed of expeditiously by way of three separate orders in different revision petitions. She would invite my attention to the various orders passed by this Court in this regard. Additionally, she would also point out that the suit properties are also different and the claim of the revision petitioners is only in respect of Survey No.426, whereas the suit for partition was in respect of S.No.422 and 426. She would further state that Section 10 Application is not maintainable in Execution Proceedings and similarly, request for transfer of the Execution Proceedings, to be tried along with the suit filed by the petitioners was also not practically possible and rightly, the Courts have dismissed the applications. She would therefore pray for dismissal of these revision petitions.

6. I have carefully considered the submissions advanced by the learned counsel for the parties.

7. At the outset, insofar as the dismissal of application under Section 10 CPC, as well as the transfer OP, on going through the orders of the Courts below, I do not find any perversity or illegality in the findings arrived at, warranting interference in revision. However, at the same time, the fact remains



that the petitioners have filed the suit challenging the preliminary decree and final decree passed including their property, in their absence. The said suit is pending in O.S. No. 103 of 2021 on the file of the Additional District Court, Tiruvannamalai.

8. It is the specific case of the petitioners that the father of the first respondent was only a lessee under one Sujan Prakash Bavaji, who claimed a rival right against the Mutt and ultimately, the right of the Mutt was declared and the claim of the lessor of the first respondent's father was negated. In fact, the matter went upto the Hon'ble Supreme Court, where also the decree in favour of the Siva Kanchi Mutt was confirmed. In such view of the matter, when the petitioners have purchased the subject property from the said Sivakanchi Mutt whose title has been upheld upto the Hon'ble Supreme Court, it would be fair and proper to protect the rights of the petitioners and not allow the respondent to proceed with the Execution Proceedings, pursuant to the final decree passed in the partition suit to which, neither the then lawful owners nor the revision petitioners were parties.

9. In the light of the above, the revision petitions are **disposed of** in the following manner:



- (i) The orders dismissing the Tr.O.P No.78 of 2022 as well as Section 10 CPC application in E.A. No.1 of 2023 in E.P. No.13 of 2015 in O.S. No.176 of 1999, are affirmed;
- (ii) The Execution Petition in E.P. No.13 of 2015 shall be kept in abeyance till the disposal of O.S. No.103 of 2021 on the file of the Additional District Judge, Tiruvannamalai.
- (iii) The Additional District Judge, Tiruvannamalai, shall expedite trial in O.S. No.103 of 2021 and shall dispose of the suit on merits and in accordance with law, on or before 30.04.2026. The parties shall co-operate for expeditious disposal of the said suit.
- (iv) It is made clear that insofar as Survey No.422 in respect of which, there is no claim made by the petitioners, there is no impediment for the Executing Court to proceed insofar as the said survey number and the direction regarding awaiting the decision of the Trial Court in O.S. No.103 of 2021 is limited to Survey No.426.

Consequently, connected Miscellaneous Petitions are closed. No costs.

27.02.2026

rkp

Neutral Citation Case : Yes/No

Internet: Yes/No

Index : Yes/No

To:

1. The Principal District Judge, Tiruvannamalai.



2. The Additional District Judge, Tiruvannamalai.

3. The Principal Sub Judge, Tiruvannamalai.

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P.B.BALAJI, J.,

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Pre-delivery order in
CRP. Nos.3316 and 3251 of 2024
and CMP. Nos.17750 and 17374 of 2024

27.02.2026