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C.R.P. NO.3165 OF 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDER RESERVED ON : 18 / 12 / 2025

ORDER PRONOUNCED ON : 01 / 04 / 2026

CORAM:

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

C.R.P. NO.3165 OF 2022

AND

C.M.P. NO.16908 OF 2022

K.Ramesh
S/o. Krishnan
18/168, Kandasamy Layout,
Sivananda Colony,
Coimbatore.

... Petitioner / Petitioner /
Proposed Respondent /
3rd Party

Versus

Mariammal (Died)

... Deceased 1st Plaintiff

1.Soundammal
W/o.Mathayyan
Monthepalayam, Jadayampalayam Post,
Mettupalayam Taluk,
Coimbatore District.

2.Rangammal
W/o.Kempe Gowder
Monthepalayam, Jadayampalayam Post,
Mettupalayam Taluk,
Coimbatore District.

3.Easwaran
S/o.Range Gowder
Monthepalayam, Jadayampalayam Post,
Mettupalayam Taluk, Coimbatore District.



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4.Kandaswami

S/o. Range Gowder

Monthepalayam, Jadayampalayam Post,
Mettupalayam Taluk, Coimbatore District.

Sundaram (Died)

... Deceased 6th Plaintiff

5.Varadaraj

S/o.Range Gowder

Monthepalayam, Jadayampalayam Post,
Mettupalayam Taluk, Coimbatore District.

6.Kanniyammal

W/o.Sundaram

Monthepalayam, Jadayampalayam Post,
Mettupalayam Taluk, Coimbatore District.

7.Rajamani

W/o.Thimmayyan

Monthepalayam, Jadayampalayam Post,
Mettupalayam Taluk, Coimbatore District.

Dorairaj (Died)

... Deceased 10th Plaintiff

8.Rangaraj

S/o.Karuppan

Residing at both Ganapathy, Coimbatore.
And Monthepalayam,
Mettupalayam Taluk.

9.Rani

W/o. Karayyan

Residing at both
Ooty and Monthepalayam,
Mettupalayam Taluk.

10.Vasantha

W/o.Rajendran

Residing at both



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Rajapuram Hamlet of Chikkadasampalayam,
Mettupalayam Taluk.

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11.S.Dhanalakshmi

W/o. Sundaram

3/11A, MonthePalayam,
Hamlet of Chikkadasampalayam,
Mettupalayam Taluk.

12.Gomathi

D/o. Sundaram

3/11A, MonthePalayam,
Hamlet of Chikkadasampalayam,
Mettupalayam Taluk.

13.Nithya

D/o. Sundaram

3/11A, MonthePalayam,
Hamlet of Chikkadasampalayam,
Mettupalayam Taluk.

14.Santhamani

W/o. Late Dorairaj
4/18, Mokka Road,
Mettupalayam.

15.Saranya

D/o. Late Dorairaj
4/18, Mokka Road,
Mettupalayam.

16.Vignesh Kumar

S/o.Late Dorairaj
4/18, Mokka Road,
Mettupalayam.

... Respondents 1-16 /
Respondents 2-5, 7-9, 11-19/
Petitioners 2-5, 7-9 /
Plaintiffs 2-5, 7-9, 11-16

Thimmayya Gowder (Died)

... Deceased Defendant



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17.T.Karappan

S/o. Late Thimmayya Gowder
3/26B, Monthepalayam,
Chikkadasampalayam,
Mettupalayam Taluk.

18.Subbammal

W/o.Arumugham
2/190, Thanneer Thadam,
Alangombu Post, Mettupalayam Taluk.

19.R.Saraswathi

W/o. Late Rangaswami
3/52, Monthepalayam,
Chikkadasampalayam,
Mettupalayam Taluk.

20.R.Gunavathi

W/o. Rangraj
73-B, Sasthri Nagar, Mel Thottam,
Sirumugai Road, Karamadai,
Mettupalayam.

21.R.Jayaprakash

S/o. Late Rangaswami
3/525, Monthepalayam,
Chikkadasampalayam,
Mettupalayam Taluk.

... Respondents 17-21 /
Respondents 2-6 /
Respondents 2-6 /
Legal Heirs of deceased
Sole Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, 1950 praying to set aside the Fair and Final Order dated April 21, 2022 made in I.A. No.5 of 2021 in I.A. No.4 of 2018 in O.S. No.718 of 1995 by the Subordinate Court, Mettupalayam.



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For Petitioner : Mr.P.Saravana Sowmiyan
For Respondents 1 to 15 : Mr.D.Krishna Pradeep
For Respondent-16 : Served – No appearance
For Respondents 17 to 21: Not necessary parties -
vide Court Order
dated November 21, 2025

ORDER

Feeling aggrieved by the Dismissal Order dated April 21, 2022 passed by the learned Subordinate Judge, Mettupalayam in I.A. No.5 of 2021 filed under Order I Rule 10(2) read with Section 151 of 'the Code of Civil Procedure, 1908' ('CPC' for short) in I.A. No.4 of 2018 in O.S. No.718 of 1995, seeking to implead the petitioner therein namely K.Ramesh as respondent in the I.A. No.4 of 2018 [Final Decree Proceedings], the petitioner therein - K.Ramesh has preferred this Civil Revision Petition under Article 227 of the Constitution of India, 1950.

2. The facts necessary for the disposal of this Civil Revision Petition are as follows:

2.1. One Solavappa Gowder had four daughters namely Marammal, Soundammal, Rangammal and Bujammal and one son namely Thimmayya Gowder. Marammal, Soundammal, Rangammal and legal heirs / legal



representatives of late Bujammal [namely Easwaran, Kandaswami, Sundaram, Varadaraj and Kanniyammal], filed a Suit for partition in O.S. No.718 of 1995 seeking division of Suit Property into five equal shares by metes and bounds and allotment of four such shares to the plaintiffs and they also filed another Suit in O.S. No.1596 of 2003 seeking permanent injunction.

2.2. Both the Suits were tried jointly by the Principal Subordinate Court, Coimbatore. During the pendency of the Suits, the first plaintiff - Marammal passed away and her legal heirs/ legal representatives were impleaded as plaintiff Nos.9 to 13. Sixth plaintiff - Sundaram also passed away during the pendency of the Suit and his legal heirs / legal representatives were impleaded as plaintiff Nos.14 to 16.

2.3. The Trial Court, after hearing both sides, concluded that the Suit Properties are ancestral and joint family properties; that the plaintiff Nos.2 and 3 are entitled to 1/10 share each; that the legal heirs of the first plaintiff - Marammal viz., plaintiff Nos.9 to 13 are jointly entitled to 1/10 share; that late Bujammal's legal heirs / legal representatives viz., plaintiffs 4 to 8 and 14 to 16, are jointly entitled to 1/10 share; that the original sole defendant is entitled to 6/10 share. Accordingly the Trial Court passed a



preliminary decree in O.S. No.718 of 1995. The permanent injunction Suit was also decreed, however, it is not a matter of concern in this Civil Revision Petition.

2.4. The plaintiffs in the partition Suit in O.S. No.718 of 1995 filed an Interlocutory Application in I.A. No.4 of 2018 under Order XX Rule 18 and Order XXVI Rules 13 and 14 of CPC, praying to pass a final decree. Pending I.A. No.4 of 2018, the matter was transferred to the newly constituted Subordinate Court, Mettupalayam on the point of jurisdiction. During the pendency of the said Application, the revision petitioner herein who is said to be the *pendente lite* purchaser from the legal heirs of the original sole defendant, filed the Interlocutory Application in I.A. No.5 of 2021 praying to implead him as respondent in the final decree proceedings.

2.5. The Trial Court after hearing both sides, concluded that the revision petitioner being a *pendente lite* purchaser of a portion of the suit properties is neither a necessary party nor a proper party to the final decree proceedings. The Trial Court further observed that the revision petitioner can claim equity only against his vendors and cannot step into the shoes of his vendors. Accordingly, the Trial Court dismissed the Interlocutory Application in I.A. No.5 of 2021.



2.6. Feeling aggrieved, the revision petitioner has filed this Civil Revision Petition under Article 227 of the Constitution of India, 1950.

3. Mr.P.Saravana Sowmiyan, learned counsel for the revision petitioner, would submit that the revision petitioner has purchased an extent of 3 Acre 12 Cents in Survey No.714/1, which is described as Item 'd' under the Suit schedule of properties, from the legal heirs of the original sole defendant *vide* Sale Deed dated December 14, 2012 (Document No.11644/2012) and Sale Deed dated September 22, 2015 (Document No.7909/2015). Hence, the revision petitioner steps into the shoes of his vendors and is entitled to seek allotment of the property purchased under the aforesaid Sale Deeds, based on the principles of equity. The Trial Court, without considering the facts and circumstances of the case, erroneously dismissed the Interlocutory Application. Accordingly, he would pray that the Civil Revision Petition be allowed. He would rely on the Judgment of Hon'ble Supreme Court in ***Dhanalakshmi -vs- P.Mohan***, reported in ***(2007) 10 SCC 719***.

4. Mr.D.Krishna Pradeep, learned Counsel appearing for Respondents 1 to 15 would submit that the original sole defendant and his legal heirs entered into a registered Partition Deed in the year 1998, during



the pendency of the Partition Suit, without obtaining leave of the Court with an ulterior motive to defeat and defraud the lawful share of the plaintiffs and cause delay in the proceedings. The revision petitioner knowing fully well about the preliminary decree of the Partition Suit, colluded with the legal heirs of the original sole defendant, created the Sale Deeds dated December 14, 2012 and Sale Deed dated September 22, 2015, with a view to deny the plaintiffs' share in Suit Item 'd', which is the most valuable property among the suit properties. The revision petitioner is not a *bonafide* purchaser. The aforesaid Sale Deeds would not bind the plaintiffs. On the strength of these Sale Deeds, the revision petitioner cannot claim equity. He is neither a necessary party nor a proper party in the final decree proceedings. If the revision petitioner is allowed to participate in the final decree proceedings, he will claim entire extent of 3 Acre 12 Cents in Survey No.714/1 Suit Item 'd' and thereby delay the final decree proceedings. He cannot claim equity against the plaintiffs. Accordingly, he would pray to dismiss the revision petition.

5. This Court has considered the submissions made by the learned Counsel appearing on either side and perused the case file.



6. An extent of 0.16.0 Hectares in S.F.No.343/1A, an extent of 1.01.00 Hectares in S.No.371/2, an extent of 0.37.05 Hectares in S.No.712/1C, an extent of 1.26.0 Hectares in S.F.No.714/1 and an extent of 1.17.5 Hectares in S.F.No.724/1A are shown as Suit Properties in the Partition Suit in O.S.No.718 of 1995. The Trial Court after hearing both sides, decreed the said Suit on November 16, 2004 granting 1/10 share each to the four daughters / their legal heirs and that the original sole defendant is entitled to 6/10 share in the suit properties.

7. It is learnt that the original sole defendant passed away after the passing of the preliminary decree. Thereafter, the legal heirs of the original defendant are stated to have entered into a registered Partition Deed dated December 24, 1998 *vide* Document No.5796 of 1998. It is to be noted that the plaintiffs are not parties to the said Partition Deed. Further, the said Partition Deed was executed during the pendency of the Suit, after passing of preliminary decree and before passing of final decree. Hence, the said partition would not bind the plaintiffs, and the plaintiffs can simply ignore the same. The revision petitioner, being a purchaser *pendente lite*, is neither a necessary party nor a proper party to the proceedings. Therefore, the Trial Court is justifiable in dismissing the Interlocutory Application.



8. *Dhanalakshmi's Case* [cited *supra*] relied on by Mr.P.Saravana

Sowmiyan, learned counsel for the revision petitioner, is distinguishable on facts. In that case, the *pendente lite* purchasers had purchased undivided share of the defendants therein. Hence, they were held to be a proper party to the Suit. But in the case on hand, the revision petitioner purchased the entire extent in a Suit Survey number *viz.*, Suit Item 'd'. When the vendors do not have right over the entire extent, the revision petitioner's Sale Deeds are not binding on the plaintiffs' share in Suit Item 'd' and they are valid only in respect of the extent of vendor's right or interest. When so, the revision petitioner cannot have any lawful claim of equity against the plaintiffs. Therefore, revision petitioner herein is neither a necessary party nor a proper party to the Suit or the Interlocutory Application.

9. The revision petitioner is a purchaser *pendente lite*, and the Sale Deeds executed in his favour would not bind the plaintiffs as stated *supra*. However, the said Sale Deeds are valid to the extent of his vendor's right, title and interest. Accordingly, the revision petitioner cannot assert any claim of equity as against the plaintiffs. Nevertheless, he is entitled to work out his equity in respect of the properties that may ultimately be allotted to the branch of the original defendant. For this limited purpose, he may be permitted to participate in the final decree proceedings. It is clarified that



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he cannot claim any equity over the entire extent of 3 Acres and 12 Cents in S.F.No. 714/1 as against the plaintiffs. The Sale Deeds do not bind the plaintiffs' share, and he has no right to interfere with or raise objections during the process of allotment of properties between the plaintiffs' side and the defendant's side. Only after such allotment is completed, he will be entitled to assert his equitable claim, that too strictly in respect of the portion allotted to the original defendant's branch. The Trial Court shall consider his claim of equity in respect of the properties allotted to the defendant's branch in accordance with law.

10. To the limited extent indicated above, this Civil Revision Petition is allowed. In the facts and circumstances of the case, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes
Neutral Citation : Yes
Speaking Order : Yes
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To

The Subordinate Court
Mettupalayam.



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R. SAKTHIVEL, J.

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PRE-DELIVERY ORDER MADE IN
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