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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 19-11-2026	Delivered on: 25-11-2026

CORAM

THE HON'BLE MR JUSTICE N.ANAND VENKATESH

Civil Revision Petition Nos.3391 of 2023 & 582 & 3616 of 2025 AND CMP.Nos.21056 of 2023 & 3305 & 19453 of 2025

CNR:{HCMA011542532023}

CNR:{HCMA011542542023} &

CNR:{HCMA011724272025}

Case QR Case QR Case QR

CRP.Nos.3391 of 2023 & 582 of 2025:

1. Satish Kumar
   S/o. Pugalenthi, Residing at
   Paramananthal Village,
   Chengam Post,
   Tiruvannamalai District.
   606710.

2. Pravin Kumar
   S/o. Pugalenthi, Residing at
   Paramananthal Village,
   Chengam Post,
   Tiruvannamalai District.
   606710.

...Petitioners

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Vs

1. Vasantha
   W/o.Gopalakrishnan,
   Residing at No.864,
   Thukkapettai Village,
   Chengam Taluk,
   Tiruvannamalai District.
   606710.

2. Murali
   S/o.Gopalakrishnan,
   Residing at No.864,
   Thukkapettai Village,
   Chengam Taluk,
   Tiruvannamalai District.
   606710.

3. Balaji
   S/o.Gopalakrishnan,
   Residing at No.864,
   Thukkapettai Village,
   Chengam Taluk,
   Tiruvannamalai District.
   606710.

4. R.Selvi
   W/o.Rajendran, New Street,
   Tirukkaadaiur Village,
   Tharangampadi Taluk,
   Nagai District.

5. The Branch Manager
   Central District Coopertive
   Society, Chengam.

...Respondents

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CRP.No.3616 of 2025 :

Selvi
W/o. Rajendiran,
Kodhandam Saalai 96,
Periyar nagar, Kundrathur,
Chennai.

...Petitioner

Vs

1. Sathish Kumar
   S/o. Pugazhendhi,
   Paramanandhal Village,
   Chengam Taluk,
   Thiruvannamalai District.

2. Praveen Kumar
   S/o. Pugazhendhi,
   Paramanandhal Village,
   Chengam Taluk,
   Thiruvannamalai District.

3. Vasantha
   W/o. Gopalakrishnan,
   No.864, Dhukkapettai,
   Chengam Taluk,
   Thiruvannamalai District.

4. Murali
   S/o. Gopalakrishnan,
   No.864, Dhukkapettai,
   Chengam Taluk,
   Thiruvannamalai District.

5. Balaji
   S/o. Gopalakrishnan,
   No.864, Dhukkapettai,
   Chengam Taluk,
   Thiruvannamalai District.

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6. The Branch Manager
Thiruvannamalai, Central
Cooperative Bank,
Chengam Branch.

...Respondents

PETITIONS under Article 227 of The Constitution of India against

(i) the fair and decretal order dated 06.1.2023 in I.A.No.1 of 2022 (CRP.No.3391 of 2023);

(ii) the fair and decretal order dated 27.7.2023 in I.A.No.2 of 2023 (CRP.No.582 of 2025); and

(iii) the fair and decretal order dated 22.4.2025 passed in I.A. No.7 of 2025,

all in O.S.No.30 of 2020 on the file of the Subordinate Court, Chengam, Tiruvannamalai District.

For Petitioners in CRP.Nos.3391 of 2023 & 582 of 2025 : Mrs.V.Srimathi

For Petitioner in CRP.No.3616 of 2025: Mr.T.S.Baskaran

For Respondents: Mr.M.S.Krishnan for M/s.Sarvabhuman Associates for R1 to R3 in CRP.Nos.3391 of 2023 & 582 of 2025 & for R3 to R5 in CRP.No.3616 of 2025

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R4 & R5 in CRP.No.3391 of 2023 :
Served & No appearance

R4 in CRP.No.582 of 2025 :
Not ready in notice

R5 in CRP.No.582 of 2025 :
Served & No appearance

R1, R2 & R6 in CRP.No.3616 of 2025:
Served & No appearance

COMMON ORDER

These civil revision petitions have been filed under Article 227 of The Constitution of India against the orders passed in three interlocutory applications in one single suit. Hence, they are taken up together, heard and disposed of through this common order.

2. Heard the learned counsel appearing on either side for the respective contesting parties.

3. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the respective impugned orders.

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4. In this common order, the parties will be referred to as per their ranking in the said suit.

5. The plaintiffs in O.S.No.30 of 2020 on the file of the Subordinate Court, Chengam (for short, the Court below) filed CRP. No.3391 of 2023 against the fair and decretal order dated 06.1.2023 dismissing I.A.No.1 of 2022 filed under Order VIII Rule 9 of the Civil Procedure Code (CPC) seeking to file a reply statement.

6. The very same plaintiffs in the said suit also filed CRP.No.582 of 2025 against the fair and decretal order dated 27.7.2023 dismissing I.A.No.2 of 2023 filed by them under Order XXIII Rule 1(3)(b) of the CPC seeking to withdraw the said suit with liberty to file a fresh suit on the same cause of action.

7. The 4th defendant in the said suit filed CRP.No.3616 of 2025 against the fair and decretal order dated 22.4.2025 dismissing I.A. No.7 of 2025 filed by her under Order IX Rule 7 of the CPC seeking to set aside the ex parte order dated 22.3.2005.

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8. The said suit originally came to be filed in the year 2002 in O.S.No.261 of 2002 on the file of the Subordinate Court, Tiruvannamalai and later it was transferred to the file of the Subordinate Court, Chengam and renumbered as O.S.No.30 of 2020.

9. At the time of filing of the said suit, the petitioners/plaintiffs were minors and they were represented through their father and natural guardian - one Mr.Pugalendhi. The said suit was filed seeking for the relief of partition, for allotment of 1/5th share in the suit properties and for other consequential reliefs.

10. On 04.4.2005, defendants 2 and 3 filed a written statement in the said suit. Originally, the 4th defendant also filed a written statement even in 2004 and claimed for allotment of 1/5th share in the suit properties in her favour.

11. The trial commenced in this case on 07.10.2005 and was completed on 06.8.2007. When the said suit reached the stage of final arguments on 09.8.2007, for reasons unknown, the

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proceedings hit a stalemate and nothing happened thereafter for many years.

12. As already stated, the said suit was subsequently transferred from the file of the Subordinate Court, Tiruvannamalai to the Court below in the year 2020 and it was renumbered as O.S.No. 30 of 2020. In the meantime, the plaintiffs attained majority in the year 2015 and they filed applications in the year 2022 seeking to prosecute the said suit in their individual capacity and to remove their father, who was acting as a guardian to them.

13. Later, I.A.No.1 of 2022 came to be filed by the plaintiffs under Order VIII Rule 9 of the CPC seeking to file a reply statement to the written statement filed by defendants 2 and 3.

14. But, the Court below, after considering the contentions raised on either side, came to the conclusion that the written statement was filed by defendants 2 and 3 in the year 2005 itself and that without taking any steps to file a reply statement immediately, such an attempt has been made by the plaintiffs only

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in the year 2022 when the said suit was at the stage of final hearing. Hence, the Court below did not find any merits in I.A.No.1 of 2022 and it was dismissed by order dated 06.1.2023. Hence, CRP.No.3391 of 2023 came to be filed.

15. The very same plaintiffs filed I.A.No.2 of 2023 under Order XXIII Rule 1 of the CPC seeking to grant permission to them to withdraw the said suit with liberty to file a fresh suit on the same cause of action contending that there were several lapses in the said suit that was filed in their names by their father and natural guardian – the said Mr.Pugalendhi when they were minors, that the lapses came to light only after the plaintiffs attained majority and that therefore, they sought to withdraw the said suit with liberty to file a fresh suit on the same cause of action.

16. But, the Court below, by order dated 27.7.2023, after considering the rival contentions, came to the conclusion that such an application could not be entertained at the fag end of the proceedings and that apart from that, it did not satisfy the requirement under XXIII Rule 1(3) of the CPC. Ultimately, the Court

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below dismissed I.A.No.2 of 2023. Hence, CRP.No.582 of 2025 came to be filed.

17. In the said suit, the 4th defendant filed I.A.No.7 of 2025 under Order IX Rule 7 of the CPC seeking to set aside the ex parte order passed against her on 22.3.2005.

18. The Court below found that there was absolutely no justification for the 4th defendant to file I.A.No.7 of 2025 in the year 2025 and that it was filed only to drag on the proceedings. Ultimately, I.A.No.7 of 2025 was dismissed on 22.4.2025. Hence, CRP.No.3616 of 2025 came to be filed.

19. In the considered view of this Court, in so far as CRP.Nos. 3391 of 2023 and 582 of 2025 are concerned, the plaintiffs virtually attempted to resurrect a case, which had already reached the stage of final hearing in the year 2007 itself by taking advantage of their attaining majority. It must also be kept in mind that they attained majority in the year 2015. However, they chose to file the relevant applications only in 2022 and 2023 respectively.

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20. In so far as I.A.No.1 of 2022 is concerned, it was filed under Order VIII Rule 9 of the CPC seeking to file a reply statement to the written statement already filed by defendants 2 & 3.

21. The Court below found that the written statement was filed by defendants 2 & 3 in the year 2005 itself and that there was absolutely no justification to file a reply statement in the year 2022 and more particularly when the suit had reached the stage of final arguments.

22. The CPC does not contemplate filing of a reply statement for the written statement. Under Order VI Rule 1 of the CPC, pleadings only include a plaint or a written statement and nothing more. The stand taken in the written statement filed by the defendants 2 & 3 was permitted to be refuted by way of cross examining the witnesses and at the time of final arguments in the suit. Even otherwise, if the plaintiffs wanted to take advantage of the language used in Order VIII Rule 9 of the CPC and file a reply statement, it should have been filed at the earliest point of time and not after the said suit had already reached the stage of final

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arguments. In this case, the said suit has been kept pending for decades together.

23. In the light of the above discussions, this Court does not find any perversity in the order dated 06.1.2023 passed by the Court below while dismissing I.A.No.1 of 2022. Consequently, the order dated 06.1.2023 passed in I.A.No.1 of 2022 stands confirmed.

24. In so far as I.A.No.2 of 2023 that was filed under Order XXIII Rule 1(3) of the CPC is concerned, such an application was filed by the plaintiffs on the ground that their father did not properly prosecute the said suit and that there were several lapses in the said suit.

25. It is relevant to take note of the stand that has been taken by the plaintiffs in the affidavit filed in support of I.A.No.2 of 2023, the scanned copy of which reads as follows :

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"5. எங்கள் தரப்பில் நியமனம் செய்யப்பட்ட வழக்குரைஞர்கள் எங்கள் தந்தை முன்னிட்ட வழக்கினையும், அவரால் விசாரிக்கப்பட்ட சாட்சிகளைக் குறித்தும் எதிர்வாதிகளின் எதிர்வழக்குரைகளை பற்றியும் அவர்கள் சார்பில் முன்னிட்டிருந்த ஆவணங்களைக் குறித்தும், சாட்சிகளை குறித்தும் எங்களுக்கு தெளிவாக விளக்கினார்கள். அப்போது தான் எங்களுக்கு பாத்தியப்பட்ட சொத்தினை காப்பாற்ற எங்கள் தந்தை புகழேந்தி அவர்கள் முன்னிட்டுள்ள வழக்கில் பல முக்கியமான சங்கதிகளை தெரிவிக்கவில்லை என்பதும், சரியாக வழக்கு கையாளப்படவில்லை என்பதும் தெரிய வந்தது. மேலும் முக்கியமான கிரயதாரர்களை தரப்பினர்களாக சேர்க்காத நிலையில் ஏற்பட்டுள்ள பாதிப்பினை உணர்ந்த நாங்கள் விளக்கமான பதில் எதிர்வழக்குரையினை முன்னிட மனு செய்துக் கொண்டோம். மேலும் அம்மனுவுடன் பதில் எதிர்வழக்குரையினையும் முன்னிட்டோம். மேதகு நீதிமன்றத்தார் அவர்கள் நாங்கள் முன்னிட்ட மேற்படி மனுவினை விசாரணைக்குப் பின் தள்ளுபடி செய்துவிட்டார்கள். மேற்படி மனு 1/2022 என்று பதிவு செய்யப்பட்டு 05-01-2023 தேதியன்று மனு தள்ளுபடி செய்யப்பட்டுள்ளது. மேலும் பல ஆவணங்களில் உள்ள கையெழுத்துக்களை சோதனை செய்ய வேண்டி கையெழுத்து நிபுணருக்கு அனுப்ப அனுமதி கோரிய மனுவும் மேதகு நீதிமன்றத்தார் அவர்களால் தள்ளுபடி செய்யப்பட்டுள்ளது.

6. எங்கள் சார்பில் நாங்கள் இளவராக இருந்த தருணத்தில் எங்க தந்தையால் முன்னிடப்பட்ட வழக்கில் பல குறைபாடுகள் உள்ளதை நாங்கள் அறிகிறோம். அந்த குறைபாடுகள் இவ்வழக்கில் திருத்தங்கள் மூலம் செலுத்தப்பட முடியாது என்பதையும் கூடுதலாக பதில் எதிர்வழக்குரை முன்னிடுவதாலும் ஏற்கனவே எங்கள் தந்தையால் சொல்லப்பட்டுள்ள வழக்கு சங்கதிகளை திருத்த இயலாது என்பதையும் நாங்கள் உணருகிறோம். வழக்குரையில் அனைத்து சங்கதிகளையும் தெரிவித்து வழக்கினை முழுமையாக முன்னிட வாய்ப்பு எங்களுக்கு தேவைப்படுகிறது. இவ்வழக்கினை தொடர்ந்து நடத்தினால் சட்டப்படி எங்களுக்கு பலன் கிடைக்காது என்பதை உணருகிறோம். அவ்வழக்கில் உள்ள

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வழக்கு மூலங்களை அனுசரித்து புதியதாக வேறு வழக்கினை நாங்கள் முன்னிட்டுக் கொள்ள தகுந்த உத்திரவினை மேதது நீதிமன்றத்தார் அவர்கள் அளிக்க வேண்டியது நியாயமும், அவசியமும் ஆகும். அவ்வழக்கினை நாங்கள் திரும்பப் பெற்றுக் கொண்டு வழக்குரையில் சொல்லப்பட்டுள்ள சொத்தினை குறித்து வழக்கு மூலங்கள் எதுவும் மாறாத வகையில் புதிய வழக்கினை முன்னிடும் பொருட்டு இந்த வழக்கினை திரும்பிப் பெற்றுக்கொள்ள தகுந்த உத்திரவினை மேதகு நீதிமன்றத்தார் அவர்கள் அளிப்பது நியாயமும் அவசியமும் ஆகும். இல்லையேல் எங்களுக்கு எல்லையில்லாத கஸ்டமும், பொருளால் ஈடு செய்ய முடியாத நஸ்டமும் நேரிடும். நாங்கள் இருவரும் இந்த வழக்கிற்காக எதிர்வாதிகளுக்கு சட்டப்படி அளிக்க வேண்டிய செலவுத் தொகைகளை அளிக்க தயாராக உள்ளோம். மேலும் மேதகு நீதிமன்றத்தார் அவர்கள் பிறப்பிக்கும் உத்திரவிற்கு கட்டுப்-படுகிறோம்."

26. While considering an application under Order XXIII Rule 1(3) of the CPC, the Court must be satisfied that the suit will fail by reason of some formal defect or that there are sufficient grounds in allowing the plaintiff to institute a fresh suit. Though liberty is given to the plaintiff in a suit to withdraw it at any time after the institution of the suit on establishing the formal defect or showing sufficient grounds, such right cannot be considered to be an absolute right so as to permit or encourage abuse of process of court. This is more so if such withdrawal of suit will prove to be detrimental to the legitimate rights of the defendants.

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27. On a careful reading of the averments made in the affidavit filed in support of I.A.No.2 of 2023, it is seen that the plaintiffs made a general allegation that certain important facts had not been properly spelt out and that some parties, who were subsequent purchasers, had not been impleaded in the said suit.

28. The Court below, while dealing with I.A.No.2 of 2023, took into consideration those grounds raised by the plaintiffs and came to the conclusion that the only apprehension of the plaintiffs was that they might fail in the said suit and that therefore, they should be given an opportunity to file a fresh suit and agitate the matter afresh.

29. The Court below, therefore, found that the ingredients of Order XXIII Rule 1(3) of the CPC were not satisfied since there was neither a formal defect nor the plaintiffs made out sufficient grounds to permit them to withdraw the said suit with liberty to file a fresh suit on the same cause of action. In the considered view of this Court, the findings rendered by the Court below are perfectly in order and the same do not suffer from any perversity warranting the

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interference of this Court. **Accordingly, the order dated 27.7.2023 passed in I.A.No.2 of 2023 is also sustained.**

30. Finally, this Court will take up CRP.No.3616 of 2025, which arises out of the order dated 22.4.2025 dismissing I.A.No.7 of 2025 filed by the 4th defendant seeking to set aside the ex parte order dated 22.3.2005.

31. On going through the records, it is seen that the 4th defendant was contesting the case along with the 3rd defendant and the same counsel was appearing for both the defendants. For some reason, the counsel was changed and in the meantime, the 4th defendant filed a written statement in the year 2004 itself and made a claim for 1/5th share in the suit properties contending that she was the daughter of one Mr.Gopalakrishnan.

32. The Court below, on going through the original records, found that the 4th defendant had changed the counsel as the counsel, who was originally engaged by the 4th defendant, reported no instructions. On 22.3.2005, apart from the 4th defendant,

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defendants 1 to 3 were also set ex parte. Later, defendants 1 to 3 alone filed applications to set aside the said ex parte order dated 22.3.2005. For reasons best known to the 4th defendant, no such application was filed till 2024. Ultimately, only in the year 2025, the 4th defendant filed I.A.No.7 of 2025 seeking to set aside the said ex parte order dated 22.3.2005.

33. The Court below found that there was absolutely no reason or justification to set aside the said ex parte order dated 22.3.2005 nearly after 20 years and that I.A.No.7 of 2025 had been filed only to drag on the proceedings. **The reason assigned by the Court below while dismissing I.A.No.7 of 2025 by order dated 22.4.2025 does not suffer from any illegality or perversity warranting the interference of this Court and it is sustained.**

34. However, considering the fact that the 4th defendant originally filed the written statement and made a claim for 1/5th share in the suit properties, she shall be permitted to argue the case before the Court below based on the original written statement that was filed in the year 2004. It is made clear that there is no question

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of allowing the 4th defendant to bring in another written statement that was filed along with I.A.No.7 of 2025 wherein the 4th defendant had taken a completely different stand supporting the case of the plaintiffs. Hence, in order to secure the ends of justice, the 4th defendant shall be allowed to argue the case based on the written statement that was filed in the year 2004 wherein the 4th defendant made a claim for 1/5th share in the suit properties.

35. In fine, all the three civil revision petitions are dismissed. There shall be a direction to the Subordinate Court, Chengam to dispose of O.S.No.30 of 2020 after hearing the final arguments within eight weeks from the date of receipt of a copy of this common order and a compliance report shall also be filed before this Court after its disposal. No costs. Consequently, the connected CMPs are also dismissed.

25-11-2026

Index: Yes
Speaking Order
Neutral Citation: Yes

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To

1. The Subordinate Court, Chengam.

2. The Branch Manager
Thiruvannamalai, Central
Cooperative Bank,
Chengam Branch.

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