



WEB COPY

CRP No. 3921 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-03-2026

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 3921 of 2024

1. S.R.Selvakumar
S/o. Rajagopal Kounder, R/o. No.21/1,
Pillayar Koil Street, Kalinjikuppam
Village and Post, Villupuram Taluk

Petitioner(s)

Vs

1. Murugan
S/o. Rajagopal Kounder, R/o. No.27/1,
Pillayar Koil Street, Kalinjikuppam
Village and Post, Villupuram Taluk

2.Selvi
W/o. Ganapathy, R/o. No.9,
Nedunjaalai Street, Viswanathapuram,
Vanapakkam Post, panruti Taluk,
Cuddalore

Respondent(s)

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PRAYER

to set aside the order of I Additional Sub Court, Villupuram dated 08-04-2024 in IA.No.506/2022 in O.S.No.86/2016 and pass such further or other order as this Honourable Court

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For Petitioner(s): Mr..V.Neethidurai For Petitioner

For Respondent(s): Mr. K. Govi Ganesan For Rr1
And 2

**ORDER**

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This Civil Revision Petition has been filed seeking to set aside the order of I Additional Sub Court, Villupuram dated 08-04-2024 in IA.No.506/2022 in O.S.No.86/2016.

2. The petitioner herein filed IA.No.506/2022 in O.S.No.86/2016 on the file of the I Additional Sub Court, Villupuram, under Order 23 Rule 1(3) of CPC seeking to withdraw the suit with the liberty to file fresh suit seeking comprehensive relief. On hearing both sides, the Trial Court dismissed the said application. Challenging the same, the petitioner has filed this Civil Revision Petition.

3. The learned counsel for the petitioner submits that the after filing the present suit, the circumstances necessitated the petitioner to file the suit for the relief of recovery of possession since the defendants were illegally occupying the suit property. Though the plaintiff enjoyed the property based on the settlement deed said to have been executed by his father, the Trial Court without considering the above fact, failed to give opportunity to the petitioner to withdraw the suit with the liberty to file fresh suit seeking comprehensive relief. Hence, he prays to allow this petition.

4. The learned counsel for the respondents submit that the reason assigned by the Trial Court for dismissing the application is justifiable one



which requires no interference as he has not produced proper reason for withdrawing suit.

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5. Heard both sides submissions and perused the materials on record.

6. On perusal of records the fact reveals that the petitioner filed the suit in OS No. 56 of 2016 on the file of the I Additional Sub Court, Villupuram, seeking for the relief of declaration and injunction against the respondents who are brother and sister. The respondents contested the case by filing written statement. While pending suit, the plaintiff filed the application to withdraw the suit with the liberty to file fresh suit seeking comprehensive relief but the same was dismissed by the Trial Court. Challenging the same, the plaintiff filed this Civil Revision Petition.

7. According to the petitioner, while pending suit, the respondents/defendants, who are his brother and sister, have illegally occupied the suit property. Hence, the necessity arose for the petitioner to file the suit for recovery of possession based on the settlement deed. The relief of filing comprehensive suit for the same cause of action is rightly available to the plaintiff. If the opportunity is not given to the petitioner, his right to protect his property will be defeated. But the Trial Court failed to give such opportunity to the petitioner. Hence, the Order passed by the Trial Court in IA.No.506/2022 in O.S.No.86/201 is set aside and the petitioner is permitted to withdraw the suit with the liberty to file fresh suit seeking comprehensive relief. Liberty is granted to the respondents/defendants to take all defence in the fresh suit.



Further, the interregnum period to file fresh suit shall be excluded for the purpose of calculating the limitation period.

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8. In the result, this Civil Revision Petition is allowed. No Costs. Pending miscellaneous petition, if any, is/are closed.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The I Additional Sub Court, Villupuram.

2. The Section officer, V. R Section, High Court, Madras.



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T.V.THAMILSELVI J.
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