



WEB COPY

CRP NO.3563 OF 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16 / 12 / 2025

PRONOUNCED ON : 06 / 01 / 2026

CORAM :

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

C.R.P.NO.3563 OF 2022

AND

C.M.P.NO.18929 OF 2022

Veeramani

... Petitioner/Petitioner/
Proposed 2nd Plaintiff

Vs.

1.Kannayiram (died)
2.Ramasamy

... Respondents 1 & 2/
Respondents/
Defendants

3.K.Vetrikodi
4.K. Kumaresan
5.K. Kumutha

...Respondents 3 to 5

Note: Respondent No.1 passed away. Respondent Nos. 3 to 5 are brought on record as the Legal Heirs / Legal Representatives of the deceased Respondent No.1-Kannayiram, vide this Court's Order dated October 16, 2025 made in C.M.P.No.8075 of 2023 in C.R.P.No.3563 of 2022.

PRAYER: Civil Revision Petition filed under Article 227 of the



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Constitution of India, 1950, praying to set aside the Fair and Decretal Order dated August 29, 2022 passed in I.A.No.696 of 2022 in O.S.No.8 of 2012 on the file of the Principal District Munsif, Kallakurichi.

For Petitioner : Mr.T.Sezhian
For Respondent - 1 : Passed away - steps taken
For Respondent - 2 : Mr.R. Nalliyappan
For Respondents 3 to 5 : Served - No appearance

ORDER

Feeling Aggrieved by the Dismissal Order dated August 29, 2022 passed in I.A.No.696 of 2022 in O.S.No.8 of 2012 on the file of the 'Principal District Munsif, Kallakurichi' (hereinafter referred as 'Trial Court') filed under Order I Rule 10 of the 'Code of Civil Procedure, 1908' ('CPC' for short) to implead the Petitioner therein as the 2nd Plaintiff in the Suit, the Petitioner therein has filed this Civil Revision Petition.

2. The Plaintiff namely Manickammal filed the Original Suit for declaration and permanent injunction against the first respondent (father of the Respondents 3 to 5) and the second respondent. According to the plaintiff, the suit properties and some more properties were exclusively



owned by her husband - Ayyasamy Udaiyar who was in possession and enjoyment of the same. On July 02, 2004, her husband executed a Gift Settlement Deed in her favour in respect of the suit properties. From the date of the Gift Settlement Deed, the Plaintiff has been in exclusive possession and enjoyment of the suit properties, and a separate Patta bearing No.613 was issued in her name. As the defendants disputed her title over the suit properties, she filed the Original Suit seeking declaration and permanent injunction.

3.The Respondents 1 and 2 / Defendants 1 and 2 entered appearance and the 2nd Respondent filed his Written Statement denying the averments made in the Plaint. The same was adopted by the first respondent. According to the 2nd Respondent, the Plaintiff's husband - Ayyasamy Udaiyar himself had no right or title over the suit properties and hence, he had no right to execute the Gift Settlement Deed in favour of the Plaintiff. In other words, neither Ayyasamy Udaiyar nor Manickammal had or have any right, title, or possession over the suit properties. Accordingly, 2nd respondent prayed for dismissal of the Suit.

4.During the pendency of the suit, the original sole Plaintiff - Manickammal passed away on December 06, 2021, leaving behind her four sons, namely, Veeramani, Ramesh, Murugan and Sivakumar and one



daughter Shanthi as her legal heirs. Further, out of the four sons, Sivakumar passed away leaving behind his wife - Arulmoli and his two sons - Irsuappan and Chinnadurai. According to the revision petitioner, before the Plaintiff's demise, the Plaintiff executed registered Gift Settlement Deed dated July 7, 2020 in respect of the suit properties in favour of her son - Veeramani / revision petitioner / proposed 2nd plaintiff. Hence, the revision petitioner is entitled to come on record under Order XXII Rule 10 (1) of CPC and accordingly, he seeks permission to continue the Suit by impleading him as the 2nd plaintiff.

5.In the Petition, the 2nd Respondent filed his counter and the 1st Respondent adopted the same. The contention of the respondents 1 and 2 in the counter is that the alleged Gift Settlement Deed dated July 7, 2020 is false and no possession was handed over pursuant to the same, and that the Plaintiff died leaving behind her four sons and one daughter and hence, all of them being her legal heirs are necessary parties to the proceedings. Since they were not impleaded as parties in the said petition, the petition is liable to be dismissed.

6.The Trial Court after hearing both sides accepted the contentions of the Respondents 1 and 2 and held that all the legal heirs of Manicakammal are necessary parties to the proceedings and without impleading them as parties to the petition, the petition is not maintainable



and accordingly, dismissed the petition. Feeling aggrieved by the order of the Trial Court, the revision petitioner - Veeramani has filed this Civil Revision Petition under Article 227 of the Constitution of India.

7.Mr.T.Sezhian, learned counsel appearing for the Revision Petitioner would submit that during the pendency of the suit, the Plaintiff executed a Gift Settlement Deed in favour of her elder son - Veeramani who is the proposed party on July 7, 2020. The other legal representatives of the plaintiff did not deny or raise any objection to the Gift Settlement Deed. Further, while the Petition is filed under Order XXII Rule 10 (1) of CPC, the Trial Court erroneously considered the same as filed under Order I Rule 10 (2) of CPC which is an error apparent on the face of record. The Trial Court erred in dismissing the petition stating that the other legal heirs are necessary parties and without impleading them in the petition, this petition is not maintainable. Accordingly, he prays to allow this revision petition. He relies on the two decisions of the Hon'ble Supreme Court: (1) ***Dhurandhar Prasad Singh -vs- Jai Prakash University*** reported in ***(2001) 6 SCC 534*** and (2) ***Mariaprakasam -vs- Upakaramary*** reported in ***2005-2-L.W. 252***.

8.*Per contra*, Mr.R.Nalliyappan, learned Counsel appearing for the



2nd Respondent would contend that neither the Plaintiff's husband, the Plaintiff Manickammal nor the proposed party had or have any right or title in the suit properties. Since the original Plaintiff herself had no right or title over the suit properties, she had no power or authority to execute the Gift Settlement Deed in favour of the proposed party during the pendency of the Suit. Moreover, the Plaintiff died leaving behind her four sons and one daughter. They were not impleaded as parties to the petition. Nor did the Petitioner later take steps to implead them in the said petition. In these circumstances, this Civil Revision Petition is not maintainable. The Trial Court has rightly appreciated the facts and circumstances of the case and dismissed the Interlocutory Application. There is no warrant for interference by this Court and therefore, the 2nd Respondent's Counsel prays that the revision be dismissed.

9.This Court has carefully considered the submissions made on either side and perused the material papers annexed in the typed set of documents.

10.The plaintiff - Manickammal filed the Suit against the Respondents 1 and 2 seeking declaration and permanent injunction, based on the Gift Settlement Deed executed by her husband - Ayyasamy



Udaiyar. The Respondents 1 and 2 denied the said Gift Settlement Deed.

According to the Respondents 1 and 2, the husband of Manickammal, namely, Ayyasamy Udaiyar, had no right or title over the suit properties and hence, he had no power to execute the Gift Settlement Deed dated July 02, 2004 in favour of the plaintiff.

11. According to the revision petitioner, during the pendency of the Suit, the plaintiff - Manickammal executed the Gift Settlement Deed dated July 7, 2020 in favour of one of her four sons - Veeramani, who is none other than the revision petitioner himself.

12. Manickammal died on December 06, 2021. Till date except the Petitioner, no legal heirs came forward to file an application under Order XXII Rule (3) of CPC. The registered Gift Settlement Deed dated July 7, 2020, *prima facie*, indicates that the proposed party claims through the plaintiff - Manickammal and it is sufficient to bring him on record under Order XXII Rule 10 (1) of CPC. At this stage, such *prima facie* satisfaction is sufficient to conclude that Veeramani, the proposed party, represents the estate of the deceased original plaintiff - Manickammal. Hence, there is no impediment to bring the proposed party on record under Order XXII Rule 10(1) of CPC. The question as to whether the Gift



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Settlement Deed dated July 7, 2020 is true and valid is a matter to be decided at the time of final adjudication of the Suit. In other words, the proposed party is required to prove the alleged Gift Settlement Deed dated July 7, 2020 in accordance with law during the course of trial. At this stage, this Court is of the considered view that the revision petitioner has made out a *prima facie* case to come on record under Order XXII Rule 10 (1) of CPC. This Court further finds that the Trial Court has approached the matter in a hyper-technical manner, which is unwarranted at this stage of the proceedings.

13. No quarrel with the case laws relied on the side of the revision petitioner.

14. Resultantly, the Civil Revision Petition stands allowed and the Order dated August 29, 2022 passed in I.A.No.696 of 2022 in O.S.No.8 of 2012 on the file of the learned Principal District Munsif, Kallakurichi, is set aside and the Interlocutory Application is allowed. Considering 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
Speaking order :Yes
Neutral citation :Yes
mps/tk

To

1.The Principal District Munsif,
Kallakurichi.

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



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R. SAKTHIVEL, J.

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PRE-DELIVERY ORDER MADE IN
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