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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 10-11-2026	Delivered on: 12-11-2026

CORAM

THE HON'BLE MR JUSTICE N.ANAND VENKATESH

Civil Revision Petition No.3760 of 2023
& CMP.No.23400 of 2023

CNR:{HCMA011813192023}

Case QR

1. Susaiammal
   T-16, 11th Street,
   Anna Nagar, Chennai-40

2. Manika Selvaraj
   T-16, 11th Street,
   Anna Nagar, Chennai-40.

...Petitioners

Vs

1. J.Subathra Devi
   D/o. Late Jesuraj D Almeida,
   T-16, 11th Street,
   Anna Nagar, Chennai-40

2. Manika Raj
   No.53, T.V.Amman Koil Street,
   Villivakkam, Chennai-600 049

3. P.Manika Rani
   No.53, T.V.Amman Koil Street,

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Villivakkam, Chennai-600 049

4. J.R.Sasikala
No.53, T.V.Amman Koil Street,
Villivakkam, Chennai-600 049.

...Respondents

PETITION under Article 227 of The Constitution of India against the order dated 25.8.2023 in the preliminary issue as to the valuation of the suit in O.S.No.588 of 2016 on the file of the 17th Assistant Judge, City Civil Court, Chennai.

For Petitioners: Mrs.C.Shyamala
For Respondents: Mrs.S.Deepika for R1
R2 – Served & No Appearance
R3 – died
R4 – Not ready in notice

ORDER

This civil revision petition has been filed under Article 227 of The Constitution of India against the order dated 25.8.2023 in O.S.No.588 of 2016 on the file of the 17th Assistant Judge, City Civil Court, Chennai (for short, the Court below) wherein the objections raised by the petitioners/D1 & D2 came to be rejected and the Court below rendered a finding that the valuation of the said suit was

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proper.

2. Heard the learned counsel appearing on either side.

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 impugned order.

4. The first respondent, who is the plaintiff, filed the said suit seeking for the relief of partition and for allotment of 1/4th share in the suit property; for appointment of an advocate commissioner to divide the suit property by metes and bounds and allot 1/4th share to her; and to pass a final decree in consonance with the preliminary decree for partition.

5. The suit property was valued at Rs.40 lakhs and the first respondent/plaintiff’s share was valued at Rs.10 lakhs. The court fees were paid under Section 37(2) of the Tamil Nadu Court Fees and Suits Valuation Act.

6. In the said suit, the petitioners/D1 & D2 filed their written statement and also made a counter claim as against the first

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respondent/plaintiff for delivery of possession of the 1st and the 2nd floor portions under the occupation of the first respondent/plaintiff, for damages, for permanent injunction and for future damages.

7. However, the Court below returned the counter claim on the ground that the value of the counter claim exceeded Rs.10 lakhs and that therefore, it was not within the pecuniary jurisdiction of the Court below.

8. Later, the petitioners/D1 & D2 filed I.A.No.2 of 2022 before the Court below contending that the said suit has not been properly valued and that the valuation of the suit must be taken up as a preliminary issue. By order dated 02.6.2023, I.A.No.2 of 2022 came to be allowed and the Court below framed the preliminary issue by allowing both the sides to let in evidence.

9. Ultimately, by the impugned order, the Court below rendered a finding that both the parties did not establish the market value of the suit property as on 28.1.2016 and that the first respondent/plaintiff properly valued the said suit and paid the court fees. The Court below further concluded that if required, the counter

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claim could be valued under Section 37(3) of the said Act and the court fees could be paid. Aggrieved by that, the above revision has been filed before this Court.

10. In the considered view of this Court, the Court below has properly appreciated the evidence and found that both the parties were not able to produce any document to establish the market value as on 28.1.2016. The Court below took into consideration the amendment, which came into force in the year 2017 and concluded that this amendment would not apply to the said suit, which was filed on 28.1.2016. The Court below also found that the said suit has been properly valued. This finding rendered by the Court below does not suffer from any perversity warranting the interference of this Court.

11. The trigger for the petitioners/D1 & D2 to raise the issue of valuation of the said suit nearly after six years of filing of the said suit was on account of return of the counter claim made by them on the ground that the value of the counter claim was beyond the pecuniary jurisdiction of the Court below. The Court below has erroneously rendered a finding that the petitioners/D1 & D2 could

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continue with the counter claim by valuing it under Section 37(3) of the said Act. This observation was made by the Court below without taking into consideration the actual counter claim that was made by the petitioners/D1 & D2. The petitioners/D1 & D2 did not seek for any partition and on the other hand, they had sought for the relief of delivery of possession, the present and the future damages and permanent injunction. These reliefs required separate valuation and payment of court fees.

12. Under the Proviso to Order VIII Rule 6A of the CPC, if the counter claim goes beyond the pecuniary jurisdiction of the Court below, the same cannot be considered by the Court below. In such a scenario, the petitioners/D1 & D2 must only file an independent suit and seek for appropriate relief. In such an event, both the suits can be tried by the competent civil court. Just because the petitioners/ D2 & D3 were not able to seek for the counter claim, they cannot be allowed to stall the proceedings in the said suit by raising the issue of valuation after seven years. In the light of the above discussions, the impugned order passed by the Court below does not require the interference of this Court.

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13. Accordingly, the above civil revision petition is dismissed. No costs. Consequently, the connected CMP is also dismissed.

12-11-2026

To
The Registrar,
City Civil Court, Chennai.

RS

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N.ANAND VENKATESH,J

RS

CRP.No.3760 of 2023 &
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