



C.R.P.Nos.6375 and 6377 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.Nos.6375 and 6377 of 2025

Bharanidharan ... Petitioner (in CRP.No.6375/2025)

Nandakumar ... Petitioner (in CRP.No.6377/2025)

vs.

Kamalan (Died)

1.Radhakrishnan

2.Jayaprakash

3.Meena ... Respondents (in both CRPs)

COMMON PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the order passed by the learned Additional District Judge, Kallakurichi in I.A.Nos.122 and 48 of 2025 in O.S.No.78 of 2019, dated 16.07.2025.

For Petitioners : Mr.V.Gunasekar (in both CRPs)

For Respondents : M/s.U.Ramya
for M/s.R.Bharath Kumar (in both CRPs)

COMMON ORDER

These Civil Revision Petitions are filed by the petitioners challenging the order passed by the Additional District Judge, Kallakurichi dismissing



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the applications filed by the petitioners seeking to set aside the *exparte* order passed against them on 16.12.2019.

2. The respondents herein filed a suit for partition against the petitioners and others. The petitioners, who were arrayed as defendants 3 and 4 in the suit failed to file a written statement and hence, they were set *exparte* on 16.12.2019. The 1st defendant in the suit already died and the legal representatives were already brought on record. The 2nd defendant, who is none other than mother of the petitioners alone contested the suit by filing written statement.

3. It is seen from the impugned order, the trial in the suit was already over and after hearing the argument of both the sides, the matter was posted for judgment on 28.01.2025. Thereafter, the instant applications have been filed by the petitioners on 23.01.2025 and 27.03.2025 respectively.

4. Since the argument in the suit is already heard and the matter is posted for judgment, the suit is not adjourned for “any hearing”, within the meaning of Rule 7 of Order IX of the Civil Procedure Code. Therefore, when the suit is posted for judgment, an application under Order IX Rule 7



of the Civil Procedure Code is not at all maintainable as per the law settled by the Apex Court in **Arjun Singh vs. Mohindra Kumar and others** reported in **AIR 1964 Supreme Court 993**. The relevant observation of the Apex Court reads as follows:-

“18. Adverting to the facts of the present appeal, this would primarily turn upon the proper construction of the terms of Order IX. Rule 7. The opening words of that rule are, as already seen, 'Where the Court has adjourned the hearing of the suit exparte. Now, what do these words mean? Obviously they assume that there is to be a hearing on the date to which the suit stands adjourned. If the entirety of the "hearing" of a suit has been completed and the Court being competent to pronounce judgment then and there, adjourns the suit merely for the purpose of pronouncing judgment under Order XX. Rule 1, there is clearly no adjournment of "the hearing" of the suit, for there is nothing more to be heard in the suit. It was precisely this idea that was expressed by the learned Civil fudge when he stated that having regard to the stage which the suit had reached the only proceeding in which the appellant could participate was to hear the judgment pronounced and that on the terms of rules 6 & 7 he would permit him to do that. If, therefore, the hearing was completed and the suit was not "adjourned for hearing", Order IX. Rule 7 could have no application and the matter would stand at the



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stage of Order IX. Rule 6 to be followed up by the passing of an exparte decree making Rule 13 the only provision in order IX applicable.”

5. In view of the law settled by the Apex Court in the above mentioned judgment, the applications filed by the petitioners under Order IX Rule 7 of Civil Procedure Code, after completion of hearing of the main suit are not at all maintainable and in such circumstances, I do not find anything to interfere with the impugned order passed by the Trial Court and dismissed the applications filed by the petitioners.

6. Accordingly, the Civil Revision Petitions are dismissed. No costs.

06.01.2026

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm



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To

The Additional District Judge,
Kallakurichi.



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S.SOUNTHAR, J.

dm

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