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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-10-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CRP No. 5688 of 2026
and CMP No. 24553 of 2026

CNR: {HCMA011953452026}

Deepa @ Tamilarasi
W/o. Sivam,
Pannaikkadu,
Sooriyampalayam Post,
Velur Road,
Tiruchengode,
Namakkal District.

..Petitioner(s)

Vs

1. Rathinambal
   W/o. Kaliappa Gounder,
   Sundaikattuthottam,
   Muthampalayam,,
   Koundachipalayam Post,
   Erode Taluk and District.

2. Valliammal
   W/o. Samyappagounder,
   Periakadu,
   Vadaku Velliampalayam,
   Cholipalayam Post,
   Erode Taluk and District.

3. Padmavathi
   W/o. Late. Deivasigamani,
   Near of Thangam Theatre,
   Elamathur Road,
   Poondurai Post,
   Erode Taluk and District.

4. Raja
   S/o. Late. Deivasigamani,
   Near of Thangam Theatre,
   Elumathur Road,

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Poondurai Post,
Erode Taluk and District.

5. Gowriammal
W/o. Late. Rasiyanna Gounder,
Erode Taluk and District.

6. Senthilnayagi
W/o. Sunvikith,
No.2/222/B-12,
Pon Nagar,
Mettur Road,
Salem 636 401.

7. Subramani
S/o. Periyanna Gounder,
Raja Modern Rice Mill,
Chinna Thottipalayam,
Anumanpalli POst,
Modakurichi Taluk,
Erode District.

..Respondent(s)

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the docket order dated 02.07.2026 made in OS No.590 of 2017 on the file of II Additional Subordinate Court, Erode and set aside the same and pass such further or other order or orders as this Court.

For Petitioner(s): Mr. M.Prashanth

For Respondent(s): Mr.J.Titus Enock for R1 & R2

ORDER

This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the order passed by the Court below on

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02.07.2026, wherein the Court below has directed the trial to commence by putting the 4th defendant in the witness box.

2.Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of respondents 1 & 2 and carefully perused the materials available on record and this Court also carefully went through the order passed by the Court below.

3.The 1st and 2nd respondents are the plaintiffs who filed the suit for partition and for permanent injunction. The defendants filed their written statement and issues were also framed.

4.One of the issue that was framed by the Court below is as to whether the Will dated 02.04.1995 relied upon by the 4th defendant is true, valid and genuine. In view of the same, the Court below has directed D4 to go into the witness box and to commence the trial. Aggrieved by this order, the present Civil Revision Petition has been filed before this Court.

5.On carefully going through the records placed before this Court, it is seen that the Trial Court framed nearly seven issues on 22.08.2023, which touches upon the limitation, non-joinder of parties, partial partition etc., Apart from these, another issue regarding the genuineness of the Will that was also

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framed based on the stand taken by the petitioner/4th defendant. In such an event, in a case of this nature, it will be more appropriate to commence the trial by examining the plaintiff, in view of the various issues that have been framed by the Court below. In other words, the Will that was relied upon by the petitioner/4th defendant alone is not the issue involved and various other issues have to be decided by the Court. In such a factual scenario, the Court below went wrong in straightaway asking the 4th defendant to get into the witness box and commence the trial.

6.The learned counsel for the respondents relied upon the judgement of the Apex Court in ***Jami Venkata Suryaprabha and Another vs. Tarini Prasad Nayak and Others*** reported in ***2024 SCC Online SC 3862,*** to substantiate his submission that there is no impediment for the Court to call upon either party to lead evidence first, depending upon the facts and circumstances of the case and nature of the issues framed.

7.There is no quarrel with respect to the above proposition of law. In the case in hand, the Will relied upon by the petitioner/4th defendant alone is not the issue and there are various other issues which require the plaintiff to go to the witness box first. Hence, the order passed by the Court below, is liable to be interfered by this Court and the order dated 02.07.2026, is hereby set aside.

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8.The Court below shall commence the trial by allowing the plaintiff to examine the witnesses and thereafter, the witnesses on the defendants' side can be examined. This observation should not be understood as a proposition of law and such an observation is made considering the facts of the present case.

9.In the result, this Civil Revision Petition stands allowed. There shall be a direction to the Court below to dispose of the suit in O.S.No.590 of 2017, within a period of six months from the date of receipt of copy of this order. No Costs. Consequently, the connected miscellaneous petition is closed.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

SSR

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N.ANAND VENKATESH, J.

SSR

To

The II Additional Subordinate Court, Erode.

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