Order QR

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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. 5839 of 2026
and CMP No. 25246 of 2026

CNR: {HCMA012144842026}

1. Selvaraj
   s/o Sabapathy,
   No.69, Lakshmana Thottam,
   Puduvalasu,
   Punjai Lakkapuram,
   Modakkurichi Taluk,
   Erode

2. Vasanthi
   w/o Selvaraj,
   No.69, Lakshmana Thottam,
   Puduvalasu,
   Punjai Lakkapuram,
   Modakkurichi Taluk,
   Erode

3. Prakash
   s/o Selvaraj,
   No.69, Lakshmana Thottam,
   Puduvalasu,
   Punjai Lakkapuram,
   Modakkurichi Taluk,
   Erode

4. Manoharan
   s/o Selvaraj,
   rep by his power of attorney, Selvaraj,
   Lakshmana Thottam,
   Puduvalasu,
   Punjai Lakkapuram,
   Modakurichi Taluk,
   Erode.

..Petitioner(s)

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Vs

1. Vennila
   w/o Krishnamoorthi,
   94-C, Nothikattuvalasu,
   46, Pudur,
   Erode

2. Rathinambal
   w/o Arumugam,
   No.39/31, Municipal Colony,
   2nd street,
   Erode

3. The Sub Registrar
   SRO, Avalpoondurai,
   Erode District

..Respondent(s)

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and final order passed in IA No.06 of 2026 in OS No.13 of 2019 on the file of II Additional District Court, Erode dated 14.08.2026 and allow the Civil Revision Petition.

For Petitioner(s): Mr.A.Sundara Vadhanan

For Respondent(s): Mr.S.Kaithamalai Kumaran for R1
R2 and R3 - Notice Dispensed with
Vide Court Order Dt. 22.09.2026

ORDER

This Civil Revision Petition has been filed under Article 227 of the Constitution of India challenging the fair and decreetal order dated 14.08.2026 passed in IA No.06 of 2026 in OS No.13 of 2019 on the file of II Additional District Court, Erode, wherein the application filed by the petitioners/defendants

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2 to 5 under Order VIII Rule 9 of C.P.C., seeking to receive an additional written statement came to be rejected by the Court below.

2.Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the 1st respondent 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 respondent is the plaintiff who filed the suit in O.S.No.13 of 2019 seeking for the relief of partition and for allotment of 1/3rd share in the suit property and for permanent injunction. Initially, the defendants filed their written statement and claimed their rights through a Will. Subsequently, the present application was filed before the Court below, wherein the petitioners sought to give up their reliance upon the Will and set up a defence of ouster.

4.The Court below dismissed the application mainly on the ground that the stand that has been taken in the additional written statement is completely at variance with the stand taken in the original written statement and therefore, the same is not sustainable. Aggrieved by the same, the present Civil Revision Petition has been filed before this Court.

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5.In the considered view of this Court, the stand that has now been taken in the additional written statement is only an alternate stand taken after giving up the earlier stand of placing reliance upon the Will. Such a stand can always be taken by the defendant and there is no bar provided under law. In view of the same, the order passed by the Court below suffers from perversity and warrants the interference of this Court and the same is here by set aside.

6.In the result, this Civil Revision Petition stands allowed in the above terms. There shall be a direction to the II Additional District Court, Erode, to dispose of the suit in OS No.13 of 2019, within a period of six months from the date of receipt of copy of this order. If the 1st respondent/plaintiff wants to file a reply statement to the additional written statement filed by the defendants, the same shall be filed, within a period of four weeks from the date of receipt of copy of this order. No Costs. Consequently, the connected miscellaneous petition is closed.

30-10-2026

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

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To

1.The II Additional District Court, Erode.

2.The Sub Registrar
SRO, Avalpoondurai,
Erode District.

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N.ANAND VENKATESH, J.

SSR

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