



WEB COPY

CRP No. 4284 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-03-2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

**CRP No. 4284 of 2019
and CMP.No.27952 of 2019**

D.Sundaram(died)
S/o.Duraisamy

D.Thamburaj(died)

1.N.Lakshmi, W/o.Narayanasamy, No.3/143,
Venkitapuram, Aerodrome Post, Coimbatore
641 014.

2. D.Jayanthi
W/o.Rajendra, No.21, 19th Cross, 3rd Main
Rajanna Layout, Hoiysala Nagar, Ramamurthy
Nagar, Banagalore 560 016.

3. D.Arukaniammal
W/o.Duraisamy, No.3/82, Venkitapuram,
Aerodrome Post, Coimbatore 641 014.

4. M.Senthilkumar
S/o.Mani, No.C-4, Cls Homes Apartment, Pls
Nagar, Chinniyampalayam, Coimbatore 641
062.

5. M.Rameshkumar
S/o.Mani, Kunnatu House, Near Savakutta,
Muthoor, Thiruvalla Taluk, Pathanamthitta
District, Kerala

6. M.Latha
D/o.Mani, No.2/53, Indian Bank Opposite,
Chinniyampalayam, Coimbatore 641 062.

7. M.Lakshmi
D/o.Mani, No.2/53, Indian Bank Opposite,
Chinniyampalayam, Coimbatore 641 062.



..Petitioner(s)

Vs

1. KASAMMAL (died)
W/o.Srinivasan, D.No.185, Sampath Street,
Rathinapuri, Coimbatore.

Poovathal(died) S/o.Krishnasamy, D.No.51,
Chinnasamy Nagar, Ganapathy, Coimbatore.
2. Krishnan
No.51-b, Chinnasamy Nagar, Ganapathy,
Coimbatore 6.
3. Rajendiran
S/o.Krishnana, Residing At Ganapathy,
Coimbatore 6.
4. Babu
S/o.Krishnan, 9th Cross Church Road,
Viswasapuram, Coimbatore.
5. Mohanambal
D/o.Krishnana, No.14, P.R.K.Garden,
Vilangkurichi, Coimbatore.
6. Sivakumar
S/o.Krishnan, No.51-b, Chinnasamy Nagar,
Ganapathy, Coimbatore 6.
7. Subbulakshmi
D/o Kasammal (Died) No.24-1-44/11,NG Road,
Vaidhyanatha Nagar, Attavara Mangalore
Dakshina Kannada Karnataka 575 001
8. Amuthavalli
D/o Kasammal (Died), No.184/483 Sampath
Veethi Rathinapuri, Coimbatore 641 027.
R1 DIED RR7 AND 8 BROUGHT ON
RECORD AS LRS OF DECEASED R1 VIDE
ORDER OF COURT DATED 11/3/2026



..Respondent(s)

Prayer: The Civil Revision Petition has been filed under the Article 227 of Constitution of India to set aside the order made in I.A.No.379 of 2014 in O.S.No.214 of 2006 dated 04.09.2019 on the file of the Learned IVth Additional District and Sessions Judge, Coimbatore.

For Petitioner(s):	Mr.C.Rajaguru
For Respondent(s):	Mr.K.Venkatasubban for M/s. Sarvabhauman Associates for RR2 to 8

ORDER

The petitioner who had suffered a decree had taken an application to set aside the same and the same also came to be dismissed and being aggrieved against the same he had filed the present Revision.

2. Heard Mr.C.Rajaguru, learned counsel appearing on behalf of the petitioners and Mr.K.Venkatasubban, learned counsel appearing on behalf of the respondents 2 to 8.

3. The learned counsel for the petitioner would submit that a partition suit came to be filed by the first respondent and the deceased respondent in which without proper service of summons, they were set ex-parte. He would submit that the suit had been ex-parte and the ex-parte decree of partition was granted without considering the fact that the plaintiffs in the suit did not have a right to



seek partition of a property. He would submit that the seventh petitioner was deposed as PW1 and had produced documents to substantiate that he had not been a resident where the summons have been said to be served and that apart he had also examined PW3 who was the witness for the affixture that had been made, who had categorically deposed that he had been called to the Court premises by one of the legal heirs of the plaintiffs and due to the relationship, he had affixed his signature in the summon papers inside the Court and not in the place where the summons was affixed. He would submit that there was a fraud played upon the Court in the manner in which the summons were sought to be served and therefore, would seek indulgence of this Court.

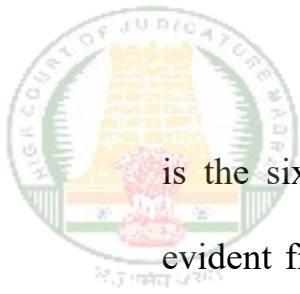
4. Countering his arguments, the learned counsel appearing for the respondents/ plaintiffs would submit that the application was filed to deny the rights of them for the property which they got by way of partition having a co-parcenary right in the property. The defendants have remained ex-parte and whenever the case reaches the stage where final orders are to be passed, one after the other defendant or their legal heirs attempted to raise an issue of not being served with the summons and seek to set aside the ex-parte decree. He would draw attention of this Court earlier such proceedings which was also ended in dismissal of the application to set aside the ex-parte decree before this Court. He would submit that this is yet another attempt by the petitioners to delay the proceedings. Hence, he would pray this Court to dismiss the Revision



WEB COPY

5. I have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record.

6. This Court in the earlier proceedings had called upon a Report from the Additional District Judge – IV from the trial Court to submit a Report as to whether the notice was served and a Report had also been placed that there was a refusal to receive the summons, it had also indicated that notice had been served. Hence, the Court's finding that there was a contradiction in the Report and had directed the original records to be sent to this Court and the original records are also placed before this Court. From the records the summons that were attempted to be served were also found and from the same, it could be seen that the summons on various defendants have been returned as they have refused to receive the same and in some cases, there was a affixture and in some cases some of the defendants' summons have been served. In respect of petitioners 1 to 4 who are the defendants 1, 2, 4 & 5, the summons that were attempted to be served, even though was received was refused to be acknowledged, claiming that they did not have any interest in the suit, this is evident from the Report of the Bailiff on the said date. However, the Bailiff had proceeded to affix the said summons on the wall of the defendants place in the premises which is claimed to have been witnessed by PW3. The fifth petitioner



is the six defendant in the suit, had been served with the summons, this is evident from the endorsement made by the bailiff and the signature affixed in the summons by one Selvaraj and such service had not been denied by the fifth petitioner. Petitioners 6 to 9 were defendant 19 to 22 in the suit and the summons would indicate that in spite of receiving the summons they had failed to acknowledge the same by contesting that they do not have any interest In the suit properties. Even though, the petitioners have attempted to examine PW3, there is no affixture of the summons for them. Hence, the evidence of PW3 cannot support the case of the said petitioners.

7. Even though, PW3 had been examined to drive home the theory that the summons have not been attempted to be served on the dependants as that the affixture was not carried out, to corroborate the evidence they had not chosen to examine the Bailiff who would be the appropriate person to assert such fact. Further, it is to be noted that in the cause title to the Revision Petitioners 1 & 2 have been shown to have been died and no steps have been taken to implead their legal heirs as parties to the Revision. The claim for petitioners 5 to 9 cannot also be considered on the strength of the evidence of PW3. No reasons have been attributed by any of the petitioners except the evidence of PW1, whose case is that he had been away from the address where the summons was attempted to be served. These facts would only bring to the conclusion that there is no reasonable cause that had been shown by the petitioners in seeking to



set aside the ex-parte preliminary decree passed. Hence, this Court do not find any infirmity or irregularity in the orders impugned in this Revision Petition.

However, considering the fact that the final decree proceedings are pending, the petitioners who had been shown as defendants could be permitted to participate in the final decree proceedings.

8. In fine, the Revision Petitions is dismissed with liberty to the petitioners to participate in the final decree proceedings. Consequently, connected miscellaneous petition is also closed. However, there shall be no order as to costs.

25-03-2026

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

GBA

To

1. The Additional District
and Sessions Judge- IV, Coimbatore.
2. The Section Officer,
VR Section,
Madras High Court, Chennai.



WEB COPY

CRP No. 4284 of 2



K.KUMARESH BABU, J.

GBA

CRP No. 4284 of 2019

25-03-2026