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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-01-2026

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

**CRP No. 101 of 2026 and
CMP No.365 of 2026**

1. S.Shanthi, W/o Selvakumar,
Melatheru, Ilayaiur, Kandiyankollai
Village, Andimadam Tk, Ariyalur Dist.

Petitioner(s)

Vs

1. Susila, W/o Samidurai,
Nadupatti, Koriyampatti, Andimadam
Tk, Ariyalur Dist.

Respondent(s)

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the Judgment and Decree made in IA.No. 11/2025 in OS.No.10/2022 dated 9.10.2025 on the file of Learned District Munsif, Ariyalur and Dismiss the IA.No.11/2025 in OS.No. 10/2022 filed by the respondent.

For Petitioner(s): Mr. M.Loganathan



ORDER

This Civil Revision Petition is filed, challenging the order passed by the Trial Court, allowing the application filed by the respondent, seeking inclusion of certain properties as subject matter of the suit.

2. The petitioner herein filed a suit in O.S.No.10 of 2022 against the respondent and other defendants. The petitioner is daughter of the respondent. Originally the petitioner filed the above said suit against her father and brothers and she has not added the respondent herein/ mother as a party in the suit. Subsequently, the respondent herein was added as 6th defendant in the said suit. The 6th defendant filed the instant application in I.A.No.11 of 2025 stating that one of the joint family properties, stood in her name, was settled in favour of the petitioner as her share, but the petitioner has not included the said property in the present suit. According to the respondent/6th defendant, since the said property is also a joint family property, it has to be included in the subject matter of the suit for partition.

3. The said application was resisted by the petitioner/plaintiff on the ground that the suit property was a self acquired property of the respondent/ 6th



defendant and therefore, the same was not available for partition. Even in the original written statement filed by the first defendant and adopted by the defendants 3 to 5, it was clearly mentioned that the property sought to be included in the suit was purchased in the name of the respondent, out of joint family funds and the same was settled in favour of the petitioner on 07.10.2003 as security, for a loan transaction between the husband of the petitioner and the first defendant. It was further stated that the entire loan amount was repaid, however the said settlement has not been cancelled, taking into consideration the close relationship between the parties. It is further pleaded in the written statement that in the year 2015, there was a mediation between the parties to divide the joint family properties and the property sought to be included, which was settled earlier in favour of the petitioner/plaintiff was allotted to her share. Since the said property has not been included in the plaint schedule, in order to have a comprehensive adjudication, the present application was filed by the respondent/6th defendant, seeking inclusion of the said property as one of the suit properties.

4. In a suit for partition, the defendants are also treated as plaintiffs and therefore, they are entitled to seek amendment of plaint to include the



properties as subject matter of the suit. The said position was clarified by

Division Bench of this court in a case in ***Solavaiammal Vs. Ezhumalai***

Gounder reported in 2012(1) CTC 159.

5. It is vehemently contended by the learned counsel for the petitioner/plaintiff that the present suit for partition has been filed in respect of ancestral properties, whereas the property sought to be included is a self acquired property of the respondent, which was already settled in favour of the petitioner and therefore, the said property cannot be included. However, in the written statement filed by the defendants, it was mentioned by them that the property sought to be included in the suit was purchased in the name of the 6th defendant, out of joint family funds. Whether the property sought to be included was treated as joint family property or it was treated as self acquired property of the respondent/6th defendant and whether it is available for partition are all matters for evidence and the same cannot be decided at the time of considering amendment application. Mere allowing of amendment application and inclusion of property as subject matter of the suit, will not automatically make the said property available for partition. The character of the property and its availability for partition have to be decided based on the



evidence to be let in by the parties. Further, the instant amendment would not cause any prejudice to the petitioner. Hence, I do not find any irregularity or illegality in the impugned order passed by the Trial Court.

6. Accordingly, this civil revision petition is dismissed. It is made clear that both the parties are entitled to lead evidence with regard to the character of the properties, now included in the plaint. There shall be no order as to costs. Connected miscellaneous petition is closed

09.01.2026

Internet : **Yes**
Index : **Yes**
Neutral Citation: **Yes**
MST

To

The District Munsif, Ariyalur.



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