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C.R.P.(MD)Nos.625 and 626 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.03.2026**

CORAM

THE HONOURABLE **MR.JUSTICE V.LAKSHMINARAYANAN**

C.R.P.(MD)Nos.625 and 626 of 2026

and

C.M.P.(MD)Nos.2915 of 2026

C.R.P.(MD)No.625 of 2026:

Radhakrishnan

... Petitioner

vs.

Santhi

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 04.12.2025 in I.A.No.4 of 2025 in O.S.No.19 of 2025 on the file of the Principal Subordinate Court, Nagercoil and allow this Civil Revision Petition.

For Petitioner : Mr.N.S.Ramakrishna Dass

C.R.P.(MD)No.626 of 2026:

Radhakrishnan

... Petitioner

vs.

Santhi

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 04.12.2025 in I.A.No.5 of 2025 in O.S.No.19 of 2025 on the file of the Principal Subordinate Court, Nagercoil and allow this Civil Revision Petition.



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For Petitioner : Mr.N.S.Ramakrishna Dass

COMMON O R D E R

The Plaintiff is the Civil Revision Petitioner. He is aggrieved by the order of the Principal Subordinate Judge at Nagercoil in I.A.No.4 of 2025 and I.A.No.5 of 2025, in O.S.No.19 of 2025, dated 04.12.2025.

2. O.S.No.19 of 2025 is a suit presented for partition of three shares of the plaintiff over the suit schedule mentioned property. In the said suit, summons were served. The defendants have also filed a written statement.

3. Pending the suit, an application was taken out in I.A.No.4 of 2025. By this application, the defendant had sought certain amendments to the written statement. This application was opposed by the plaintiff stating that the defendant was trying to create false records through means of filing an amendment application. The learned Trial Judge allowed the application permitting the 2nd defendant to amend the written statement. Hence, this Revision.

4. Heard Mr.N.S.Ramakrishna Dass for the Civil Revision Petitioner.



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5. The scope of Order 6 Rule 17, whether it relates to the amendment to the plaint or written statement is settled. The defendant, unless and until, seeks to introduce a fresh case, in its entirety which would take the plaintiff by surprise, the Court should not throw the amendment application out. The pleas which are sought to be introduced by way of amendment application do not in any manner prejudice the plaintiff. If the plaintiff feels that a new case is sought to be projected in a suit of the year 2025, it is always open to him to file an application seeking permission of the Court to file a reply statement or a replication. As the present written statement is not one which comes within the bar of Order 6, Rule 17, I am not inclined to admit the Revision.

6. Insofar as I.A.No.05 of 2025 is concerned, it is a petition filed by the defendant seeking permission of the Court to file a counter claim. In the said counter claim, she seeks for a declaration that the suit schedule mentioned property belongs to her. A perusal of the written statement filed by her on 28.04.2025 shows that the plea that she is the owner of the property had already been raised by her. The cause of action for seeking the counter claim arose much earlier. Hence, the contention that Order 8 Rule 6B is a bar does not appeal to me.



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7. The further plea that, since she is the second plaintiff in O.S.No.44 of 2025, which is a suit for partition and separate possession and hence, she cannot file a counter claim, is untenable. There is no law, which states that a party, who files a counter claim, cannot file a suit.

8. In fact, the learned counsel for the petitioner has placed the plaint in O.S.No.44 of 2025 for perusal of this Court. A perusal of the schedule of the property shows that Survey No.2-45 of Nagercoil South Village, Agastheeswaram Taluk, Kanniyakumari District is Item No.1 of the schedule property. Apart from the said property, O.S.No.44 of 2025 relates to two other properties. If the plaintiff is so advised, it is for him to move a transfer petition and club these two suits. As the counter claim has been filed on a matter, which has arisen soon after the filing of the suit in O.S.No.19 of 2025 and as I do not find any of the bar under Order 8 Rule 6B, being attracted, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
Nsr

09.03.2026



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To:

The Principal Subordinate Court, Nagercoil.



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V.LAKSHMINARAYANAN, J.

Nsr

Order made in
C.R.P(MD)Nos.625 and 626 of 2026

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