



CRP(MD). No.733 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 17.02.2026

CORAM

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

**CRP(MD). No.733 of 2023
and CMP(MD).No.3428 of 2023**

1.K.Ponmari
2.K.Alagarsamy

... Petitioners

Vs.

1.T.Mallika
2.T.Vanitha
3.S.Sasikala

4.The Sub Registrar,
Nagalnaickenpatti Sub Registrar Office,
Nagalnaickenpatti,
Dindigul District.

... Respondents

PRAYER :-Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records pertaining to the impugned O.S.No.279 of 2022 pending on the file of the learned Additional District Court, Dindigul and strike off the same as sheer abuse of process of law.

For Petitioners : Mr.A.Saravanan

For Respondents : Mr.M.Kannan for R1
Ms.K.Banumathi for R2 & R3
Legal aid counsel

Mr.P.Thambi Durai for R4
Government Advocate



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ORDER

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This Civil Revision Petition has been filed seeking to strike off the plaint in O.S. No. 279 of 2022, pending on the file of the learned Additional District Court, Dindigul, as a sheer abuse of process of law.

2.Heard the learned counsel for the petitioners as well as the learned counsel for the respondents.

3.The present revision has been filed by the petitioners seeking to strike off the plaint filed by the plaintiffs in O.S. No. 279 of 2022. The plaintiffs 1 to 3 are sisters, the first defendant is their mother, and the second defendant is the son. All the three plaintiffs, along with their mother (first defendant), executed a settlement/gift deed in favour of the second defendant on 19.11.2020. Subsequently, the suit has been filed seeking to set aside the said gift deed dated 19.11.2020 and for partition. Challenging the maintainability of the said suit, the present revision has been filed to strike off the plaint.

4.The learned counsel appearing for the respondents submitted that the gift deed dated 19.11.2020 was executed based on the assurance given by the revision petitioner that a release deed would be executed in favour of the



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respondents. However, the said assurance was not honoured. It is further submitted that, on the pretext of obtaining a release deed, there was misrepresentation on the part of the petitioner, and he has gone back on his promise. Hence, the suit has been filed to set aside the gift deed. According to the respondents, the issue is triable in nature, involving both oral and documentary evidence, particularly when the execution of the gift deed itself is disputed.

5.The learned counsel for the respondents relied upon the judgment of the Hon'ble Supreme Court in P. Suresh Vs. D. Kalaivani and Others, reported in 2026 SCC OnLine SC 143, wherein it has been held as follows:

“7.4.As stated above, embargo in this regard would have to be construed as near total when provision is available in CPC. It is held, therefore, that once the specific provision under Order VII Rule 11 of the CPC, is available, the High Court cannot exercise powers under Article 227 to reject or strike off the plaint. For such relief, the specific provision under Order VII Rule 11, CPC, will have to be resorted to, on the grounds mentioned in the said provision.”

6.He also relied upon the judgment of the Hon'ble Supreme Court in K.



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Valarmathi and others Vs. Kumaresan, reported in 2025 LiveLaw (SC) 515,

wherein it has been held that:

“11.In the present case, High Court has supervened the provisions of the Code when it rejected the plaint on the ground it was barred by law. In doing so, the High Court not only substituted itself as the court of first instance but also rendered nugatory a valuable right to appeal available to the appellant had the issue been adjudicated by the trial court in the first place.”

7.The dictum laid down by the Hon’ble Supreme Court makes it clear that such issues are triable in nature and require adjudication based on oral and documentary evidence. Therefore, the application seeking to strike off the plaint is not maintainable. This Court finds no infirmity in the proceedings of the trial Court.

8.In view of the above, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

9.The Court places on record its appreciation for the commendable efforts of the legal aid counsel for the respondents 2 and 3, namely, Ms.K.Banumathi, for conducting the case diligently and providing valuable



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assistance to this Court. The High Court Legal Services Committee attached to this Bench shall pay a total sum of Rs.10,000/- towards remuneration to the legal aid counsel for conducting the cases, within a period of two weeks from the date of receipt of a copy of this order, without fail.

10.Registry is directed to forward a copy of this order to the Legal Aid Committee for information.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

17.02.2026

TM

To

- 1.The Additional District Judge, Dindigul.
- 2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.
- 3.The Legal Aid Committee,
Madurai Bench of Madras High Court, Madurai.



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N.SENTHILKUMAR, J.

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