



C.R.P.(MD)No.1400 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.06.2026

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

C.R.P.(MD)No.1400 of 2023
and C.M.P.(MD)No.6967 of 2023

S.Manimuthu

... Petitioner

Vs

1.Chandran
2.Thangam
3.Man Mani

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the orders made in I.A.No.6 of 2023 made in O.S.No.132 of 2021 dated 28.03.2023, on the file of Subordinate Judge, Manamadurai.

For Petitioner : Mr.R.Murali

For Respondents : Mr.S.Srinivasa Ragavan

ORDER

This Civil Revision Petition has been filed challenging the order passed by the trial Court dismissing the application filed by the



C.R.P.(MD)No.1400 of 2023

petitioner under Order 23 Rule 1 of CPC, seeking permission to withdraw the suit with liberty to file a fresh suit.

2. The petitioner has filed a suit for bare injunction. The trial in the suit is already over and the matter was posted for pronouncement of judgment. At that stage, the instant application has been filed by the petitioner seeking permission to withdraw the suit with the liberty to file a fresh suit on the same cause of action.

3. In the affidavit filed in support of the petition, it was stated by the petitioner that the first defendant, who was examined as DW1, specifically admitted about his knowledge concerning the proceedings in M.C.No.173 of 1963 on the file of Sub-Divisional Magistrate, Ramanathapuram, wherein there was reference about the right of the petitioner over the suit property. It is further stated in the affidavit that in order to get declaration of title in respect of the suit property in favour of the petitioner, he wanted to withdraw the suit with the liberty to file a fresh suit seeking declaration of title and for other reliefs.



C.R.P.(MD)No.1400 of 2023

4. If the first defendant, who was examined as DW1, admitted anything regarding the right of the petitioner over the suit property, it is always open to the petitioner to proceed with the suit and there may not be any need for him to withdraw the suit. In the affidavit filed in support of the petition seeking withdrawal of the suit, the petitioner has not stated anything about the formal defect in the suit or sufficient grounds for seeking withdrawal of the suit. Therefore, the petitioner has not satisfied the ingredients of Order XXIII Rule 1(3) (a) and (b) of C.P.C.

5. The trial Court rightly appreciated the position and dismissed the application seeking withdrawal of the suit. I do not find any legal error in the said order passed by the Court below and accordingly, the Civil Revision Petition shall stand dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

29.06.2026

NCC : Yes / No
Index : Yes / No
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C.R.P.(MD)No.1400 of 2023



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C.R.P.(MD)No.1400 of 2023

S.SOUNTHAR, J.

vsm

To

- 1.The Subordinate Judge, Manamadurai.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

C.R.P.(MD)No.1400 of 2023

29.06.2026