



C.R.P.(MD)No.9 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2026

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)No.9 of 2026 and  
C.M.P.(MD)No.40 of 2026

M.Ramesh

... Petitioner

-VS.-

1.Anadharaj  
2.Premrajan  
3.Prabhurajan

...Respondents

**PRAYER:** Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the order passed in I.A.No.7 of 2025 in A.S.No.55 of 2024 on the file of the Additional District Court, Virudhunagar, dated 31.10.2025.

For Petitioner :Mr.D.Dhanachandra Prakash  
For Respondents :Mr.S.Sukumar

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### **ORDER**

The present Civil Revision Petition has been filed challenging the order passed by the learned Additional District Munsif, Virudhunagar, in I.A.No.7 of 2025 in A.S.No.55 of 2024, dated 31.10.2025.



C.R.P.(MD)No.9 of 2026

2.Heard Mr.D.Dhanachandra Prakash, learned Counsel for the Revision Petitioner and Mr.S.Sukumar, learned Counsel for the respondents.

3.The petitioner herein, as plaintiff, has filed a suit in O.S.No.8 of 2012 before the Subordinate Court, Sivakasi for partition and for other reliefs against the respondents herein. The said suit was decreed, vide judgment and decree, dated 24.06.2024. Challenging the same, the respondents herein have preferred an appeal in A.S.No.55 of 2024 before the Additional District Court, Virudhunagar. During the pendency of the appeal, the petitioner herein has filed an application in I.A.No.7 of 2025 under Order VI Rule 3 CPC to reject the memorandum of appeal filed by the respondents herein on the ground that the memorandum of appeal filed by the respondents herein was not adhering to the mandate under Order 41 Rule 1(2) CPC. The learned Additional District Judge, Virudhunagar, vide impugned order, dated 31.10.2025, had dismissed the said application on the ground that there is no procedural lapse in the grounds of appeal filed by the respondents. Challenging the same, the present Civil Revision Petition has been filed.



C.R.P.(MD)No.9 of 2026

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4.The learned Counsel for the revision petitioner reiterated the contentions raised in the grounds revision and pointed out the memorandum of appeal in paragraph Nos.II, III, IV, VII, VIII, X, XIB. According to the learned Counsel for the revision petitioner, these are all not the grounds, but the questions posed before the trial Courts and such questions are being made as grounds. However, without properly applying the provision under Order 41 Rule 1(2) of CPC and without considering the averments made by the petitioner in the application to reject the memorandum of appeal, the Court below has erroneously dismissed the application, which needs interference of this Court.

5.In support of his contention, the learned Counsel for the revision petitioner relied upon a judgment of Hon'ble Supreme Court in the case of ***State of Maharashtra -vs.- M/s.Hindustan Construction Company Limited***, reported in ***(2010) 4 SCC 518***, wherein, the Hon'ble Supreme Court has held as follows:

*“23.Do the principles relating to amendment of pleadings in original proceedings apply to the amendment in the grounds of appeal? Order 41 Rule 2 CPC makes a provision that the appellant shall not, except by leave of the court, urge or be heard in support of*



C.R.P.(MD)No.9 of 2026

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*any ground of objection not set forth in the memorandum of appeal; but the appellate court, in deciding the appeal, shall not be confined to the grounds of objections set forth in the memorandum of appeal or taken by leave of the court. Order 41 Rule 3 CPC provides that where the memorandum of appeal is not drawn up as prescribed, it may be rejected, or be returned to the appellant for the purpose of being amended. The aforesaid provisions in CPC leave no manner of doubt that the appellate court has power to grant leave to amend the memorandum of appeal.*

*24.As a matter of fact, in **Harcharan v. State of Haryana [(1982) 3 SCC 408]**, this Court observed that the memorandum of appeal has the same position as the plaint in the suit. This Court said: (SCC p. 411, para 5)*

*“5. ... When an appeal is preferred the memorandum of appeal has the same position like the plaint in a suit because plaintiff is held to the case pleaded in the plaint. In the case of memorandum of appeal same situation obtains in view of Order 41 Rule 3. The appellant is confined to and also would be held to the memorandum of appeal. To overcome any contention that such is not the pleading the appellant sought the amendment.”*

6.In the above judgment, the Hon'ble Supreme Court had made it clear that if the grounds of appeal are not drawn up as prescribed, then it can be rejected or be returned to the appellant for the purpose of amendment.

7.The learned Counsel for the respondents submitted that in the above judgment, the Hon'ble Supreme Court has categorically held that the grounds of appeal can be rectified by filing an amendment application, as the first



C.R.P.(MD)No.9 of 2026

appeal is a continuation of the suit, there will be no prejudice cause to the revision petitioner. Hence, the respondents may be permitted to file an application to amend the memorandum of appeal.

8.In view of the submission made by the learned Counsel for the respondents, the Civil Revision Petition is disposed of giving liberty to the respondents to file an amendment application to amend the memorandum of appeal within a period of four weeks from the date of receipt of a copy of this order and if any such application is filed, then the Court below shall consider the same and pass appropriate orders on merits and in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

**06.02.2026**

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

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To

The Additional District Munsif, Virudhunagar.



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C.R.P.(MD)No.9 of 2026

**N.SENTHILKUMAR, J.**

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**C.R.P.(MD)No.9 of 2026**

06.02.2026