



CRP(MD). No.145 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 19.02.2026

CORAM

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

**CRP(MD). No.145 of 2026
and CMP(MD).Nos.602 & 603 of 2026**

1.Sairam
2.Balasaraswathi

... Petitioners

Vs

1.Sornathai
2.Selvan
3.Subulakshmi
4.Kasturi

... Respondents

PRAYER :-Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the impugned fair and decretal order passed in I.A.No.1 of 2025 in O.S.No.483 of 2024, dated 08.09.2025 on the file of the Principal Subordinate Judge, Tirunelveli.

For Petitioner : Mr.C.Nihil Nandha for
M/s.Saravanan Associates

For Respondents : Mr.N.Vignesh

ORDER

This civil revision petition has been filed to set aside the impugned fair and decretal order passed in I.A.No.1 of 2025 in O.S.No.483 of 2024, dated 08.09.2025 on the file of the Principal Subordinate Judge, Tirunelveli.



CRP(MD). No.145 of 2026

2.The present application has been filed challenging the dismissal of the petition filed under Order VII Rule 11 CPC seeking rejection of the plaint.

3.The learned counsel for the revision petitioner submitted that a suit had earlier been filed by the maternal uncle of the plaintiff in O.S. No. 197 of 2024 before the trial Court. The primary contention is that, though the present suit is one for partition, it has been instituted after an inordinate delay of 72 years. According to the petitioner, the respondent, who remained in deep sleep for several decades, has now filed the suit claiming right over the property, and therefore, the suit is barred by limitation.

4.It is further contended that the question of limitation arises on two grounds namely, a delay of 72 years and, alternatively, 38 years, under different factual circumstances.

5.Apart from limitation, it is also contended that the suit is bad for non-joinder of necessary parties, inasmuch as the District Collector has not been impleaded, despite a portion of the land having been acquired, and the National Highways Authority, being the competent authority in respect of the acquisition proceedings, has also not been made a party.



WEB COPY

6. The learned counsel further submitted that the revision petitioner has purchased the property under a valid sale deed and having a clear title, is in possession and enjoyment of the same. Hence, the institution of the suit is barred by law. In support of this contention, reliance was placed on the judgment of the Hon'ble Supreme Court in the case of SMT. Uma Devi and Others Vs. SRI. Anand Kumar and Others, in SLP (Civil) No. 2137 of 2025, wherein, the Honourable Supreme Court, has held as follows:

“8. The defendants raised a primary objection, asserting that the property, originally owned by Boranna, had already been partitioned by way of an oral partition in the year 1968 amongst his four sons, through a family settlement. We have gone through the revenue records, as placed before us and it is evident that this settlement was indeed acted upon. The revenue records indicate the names of each of Baronna's four sons and also that the property had been mutated in their respective names, the reason assigned for the change in the revenue records is the family partition of the year 1968. Additionally, the defendants contended that, based on the terms of the family settlement, the daughter in law of Shivanna and other family members had disposed their property through registered sale deeds executed as far back as 1978. It is therefore clear that the plaintiffs had full knowledge of this transaction.”



CRP(MD). No.145 of 2026

WEB COPY

7.The Honourable Supreme Court, in a partition matter filed after a delay of 55 years, took into account intervening transactions and third-party rights and consequently quashed the proceedings.

8.Per contra, the learned counsel for the respondent submitted that the issue of non-joinder of necessary parties can be decided during trial, and appropriate applications can be filed to implead such parties, as the plaintiff is the dominus litis.

9.It is further submitted that the question of limitation is a mixed question of law and fact, which requires adjudication, based on evidence, both oral and documentary, and therefore, it cannot be decided at the threshold in an application under Order VII Rule 11 CPC, particularly in a suit for partition.

10.The learned counsel also relied upon the judgment of the Hon'ble Supreme Court made in the case of Chhotanben and another Vs. Kiritbhai Jalkrushnabhai Thakkar and anothers reported in (2018) 6 SCC 422, wherein the Honourable Full Bench held that issues relating to limitation and res judicata are matters that ordinarily require adjudication at trial.



CRP(MD). No.145 of 2026

WEB COPY

11. Insofar as the plea of res judicata is concerned, it is submitted that the same also involves factual determination and cannot be a ground for rejection of the plaint at the threshold.

12. In view of the above, this Court finds no infirmity in the order passed by the trial Court in dismissing the application filed under Order VII Rule 11 CPC.

13. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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

19.02.2026

TM

To

1. The Principal Subordinate Judge, Tirunelveli.

2. The Section Officer,
E.R. Section/V.R. Section,
Madurai Bench of Madras High Court, Madurai.

N.SENTHILKUMAR, J.



WEB COPY



CRP(MD). No.145 of 2026

TM

CRP(MD). No.145 of 2026

19.02.2026