

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE  
VIRUDHUNAGAR**

Present : Thiru. **T.V.Hemanandakumar, B.A.,L.L.M.**,  
Additional District Judge, Virudhunagar

Monday, the 03<sup>rd</sup> day of June, 2024

**IA No.7/2024 in OS.No.51/2021**

Muthumari

... Petitioner/Plaintiff

//Vs//

- 1) Ramanujam Ammal (Died)
- 2) Uma
- 3) Ananthi
- 4) Sivamuthu
- 5) Manoharan
- 6) The Sub-Registrar, Sivakasi
- 7) The Tahsildar, Sivakasi

... Respondents/Defendants

This petition came up on 30.04.2024 for final hearing before me in the presence of Thiru.R.Muthuraman, Learned advocate for the petitioner, 1<sup>st</sup> respondent being dead, Thiru.M.Muthukrishnan, Learned advocate for the respondents 2 to 4, Thiru.S.V.Nagarajan, Learned advocate for the 5<sup>th</sup> respondent, the respondents 6 & 7 remained exparte and upon considering all material records in this case and hearing on both sides and having stood over till this day for consideration and this court doth deliver the following

**ORDER**

Petition is filed under section 151 CPC by the petitioner/plaintiff to stay further proceedings in OS No.51/2021 since the petitioner has to file revision petition against the order passed in IA No.6/2024.

2. The averment in the affidavit which are necessary for the disposal of this petition is as follows:

The petitioner is the plaintiff in the suit. The petitioner filed the suit for partition of her 1/4 share in the suit properties, to declare the sale deed executed by the defendants 2 & 3 in favour of the 4<sup>th</sup> defendant and document executed by the 4<sup>th</sup>

defendant in favour of the 5<sup>th</sup> defendant. When the case came up for trial, this petitioner came to know that some of the properties owned by her mother were omitted to be stated in the suit schedule. So, for a complete partition, this petitioner filed IA No.6/2024 for amendment of the plaint. On 1.3.2024 this court passed order in IA No.6/2024 and the particulars of amendment in para number 5, 7 & 8 were dismissed. Those amendments are also necessary for the just disposal of the case and hence, the petitioner is willing to prefer revision petition against order and decreetal order in IA No.6/2024. Hence, till the final order in the revision petition, further proceedings in the suit has to be stayed.

3. The respondents 2 to 4 filed detailed counter contending that the petition is not maintainable and the amendments sought for are also not maintainable and as per Order 41 Rule 5(1) CPC any appeal shall not operate as a stay of proceedings and hence, the petition has to be dismissed.

4. The 5<sup>th</sup> respondent endorsed 'no counter'.

5. Point for consideration is whether this petition has to be allowed?

6. Heard both sides.

7. Point:

The suit is filed by the petitioner/plaintiff for the reliefs of partition and to declare some of alienations void and for injunction. During the pendency of this suit, this petitioner filed IA No.6/2024 for amendment of the plaint to include some properties and delete some properties. After detailed enquiry, this court partly allowed the petition and particulars of amendment in para number 5, 7 & 8 were not allowed. Now, the petitioner submits that she wants to file revision petition against the order in IA No.6/2024 and till the disposal of the revision petition, entire proceedings in this case has to be stayed.

8. On the side of the respondents 2 to 4 it is contended that the petition is filed only to prolong the proceedings and any appeal will not operate as a stay until the appellate court passed any stay order. It is seen from the records that IA No.6/2024 was disposed of on 1.3.2024 itself. This petition for stay was filed on

11.3.2024 and pending till date. So, the petitioner has already availed more than 90 days to get a stay order from the above court. As rightly contended by the learned counsel for the respondents mere filing of revision petition will not operate as stay to the entire proceedings and hence, this court is of the view that this petition has to be dismissed.

9. In the result, this petition is dismissed. No order as to costs.

Dictated to the steno-typist, typed by him, corrected and pronounced by me in open court, on this the 03<sup>rd</sup> day of June, 2024.

Additional District Judge,  
Virudhunagar.

Witness and Exhibits on the side of the Petitioner:

Nil.

Witness and Exhibits on the side of the Respondents:

Nil.

Additional District Judge,  
Virudhunagar.

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Additional District Court  
Virudhunagar  
IA No.7/2024 in OS No.51/2021  
**ORDER**  
Dated: 03.06.2024  
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