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CMP Nos. 802 of 2011 & 827 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-03-2026

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THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CMP Nos. 802 of 2011 & 827 of 2025

in

A.S.No.548 of 2005

CMP No. 802 of 2011:

1. Senthilselvan
2. Kathiravan
3. Dayanidhi
4. Kanimozhi

..Petitioner(s)

Vs

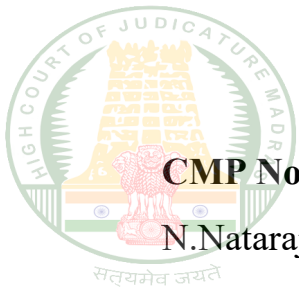
1. Jothi @ Jothimani
2. Kayalvizhi
3. Kavipriya

..Respondent(s)

Prayer: This Civil Miscellaneous Petition has been filed under Order 41 Rule 19 of the Civil Procedure Code, praying to set aside the order of dismissal for default in A.S.No.548 of 2008 dated 16.06.2011.

For Appellant(s): M/s.V. Srimathi

For Respondent(s): R1 – No appearance
R2 & R3 – Not Ready in Notice



CMP No. 827 of 2025

N.Natarajan

..Appellant(s)

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Vs

1. Senthilselvan,
2. Kathiravan
3. Dayanithi
4. Kanimozhi
5. Jothimani @ Jothi
6. Kayalvizhi
7. Kavipriya

..Respondent(s)

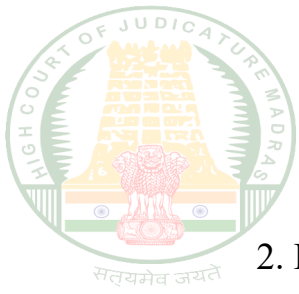
Prayer: Civil Miscellaneous Petition filed under Order 1 Rule 10(2) of the C.P.C., praying to implead the Petitioner/proposed party herein as 4th Respondent in the above said CMP.No.802/2011 and pass such further or other order or orders as this Honourable Court may deem fit and proper in the circumstances of the case.

For Appellant(s): Dr.S.S.Swaminathan

For Respondent(s): M/s.V. Srimathi

COMMON ORDER

C.M.P.No.802 of 2011 has been filed to set aside the order of dismissal for default in A.S.No.548 of 2008 dated 16.06.2011 and C.M.P.No.827 of 2025 has been filed to implead the Petitioner/proposed party herein as 4th Respondent in the above said CMP.No.802/2011.

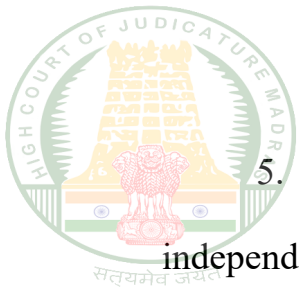


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2. Heard both sides.

3. The learned counsel for the petitioner in CMP.No.827 of 2025 would submit that the respondents 1 to 3 in the appeal suit, who had benefitted by the partition, had sold the property in his favour and subsequently, they had also filed an independent suit, challenging the sale deed executed by them in his favour in O.S.No.20 of 2021 on the file of the Additional District Court, Dharmapuri for declaration and for permanent injunction.

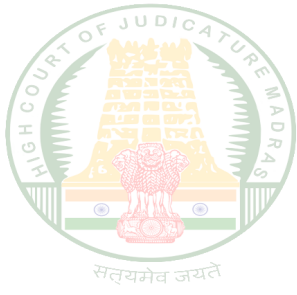
4. The present appeal suit had been dismissed by this Court in the year 2011 and an application to restore the suit had also been immediately taken out by the petitioner in CMP.No.802 of 2011. However, notice was ordered by this Court only in the year 2023 and such notice has been returned as “Unserved”, indicating that the respondents had left the address, which has been given in the CMPs and thereafter, by order dated 15.10.2025, on the memo filed by the appellants, indicating that respondents 1 to 3 are in a particular address, a direction to issued to serve notice on the said address. Thereafter, notice attempted to be served through Court on the said address had been served only on the first respondent, who had not taken steps to defend the said application. But however, notice on respondents 2 and 3 had been returned with an endorsement “Left”.



5. It is also to be noted that the respondents 1 to 3 had also filed an independent suit as against the petitioner in CMP.No.827 of 2025 and in view of the same, it is also presumed that they would be aware of the present applications in CMP.No.802 of 2011 to restore the suit, but they have not bothered to take any steps and could only be presumed to have evaded service of summons on them in the said application.

6. In view of the fact that the petitioner in CMP.No.827 of 2025 had now purchased the property from respondents 1 to 3 in the appeal suit and also in view of their conduct in filing the independent suit against the said petitioner, there could be an attempt to take shelter under an *ex parte* order that could be passed in the appeal suit to deny the claim of the petitioner in CMP.No.827 of 2025.

7. In such view of the matter, C.M.P.No.802 of 2011 in A.S.No.548 of 2005 is ordered as prayed for and the appeal suit stands restored and C.M.P.No.827 of 2025 in A.S.No.548 of 2005 is also ordered as prayed for. No costs.



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8. Considering the above fact that the petitioner in CMP.No.827 of 2025 is also impleaded as a party respondent in A.S.No.548 of 20005, Registry is directed to carry out necessary amendments with regard to the same.

24-03-2026

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Note: Registry is directed to list the Appeal Suit in A.S.No.548 of 2005 for hearing on 20.04.2026.

CMP No. 802 of 2011

To

1. Jothi
@ Jothimani W/o Lae R. Rajamanickam
Jeeva Nagar, Pappireddipatti Taluk,
Dharmapuri District.
2. Kayalvizhi
Daughter Of R.Rajamanickam, Jeeva Nagar,
Pappireddipatti Taluk, Dharmapuri District.
3. Kavipriya
Daughter Of R. Rajamanickam Jeeva Nagar,
Pappireddipatti Taluk, Dharmapuri District.

AS No. 548 of 2005

To

1. Jothi @ Jothimani
W/o.Late R.Rajamanickam, Jeeva Nagar,
Pappireddipatti, Pappireddipatti Taluk,
Dharmapuri District
2. Kayalvizhi
D/o.Late R.Rajamanickam, Jeeva Nagar,



Pappireddipatti, Pappireddipatti Taluk,
Dharmapuri District

3. Kavipriya,
D/o.Late R.Rajamanickam, Jeeva Nagar,
Pappireddipatti, Pappireddipatti Taluk,
Dharmapuri District

CMP No. 827 of 2025

To

1. Senthilselvan,
S/o. late Rajamanickam, Residing at Jeeva
Nagar, Pappireddipatti Taluk, Dharmapuri
district
2. Kathiravan
S/o. late Rajamanickam, Residing at Jeeva
Nagar, Pappireddipatti Taluk, Dharmapuri
District
3. Dayanithi
S/o. Late Rajamanickam, Residing at Jeeva
Nagar, Pappireddipatti Taluk, Dharmapuri
District
4. Kanimozhi
W/o Murugan, Tiruvallur Salai,
Venkatasamudram, Pappireddipatti Taluk,
Dharmapuri District
5. Jothimani @ Jothi
W/o. Late Rajamanickam, Residing at Jeevan
Nagar, Pappireddipatti Taluk, Dharmapuri
District
6. Kayalvizhi
D/o. Late Rajamanickam, Residing at Jeevan
Nagar, Pappireddipatti Taluk, Dharmapuri
District
7. Kavipriya
D/o. Late Rajamanickam, Residing at Jeevan
Nagar, Pappireddipatti Taluk, Dharmapuri
District.



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K.KUMARESH BABU J.

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in
A.S.No.548 of 2005**

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