

C.R.P.(MD)No.3634 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2026

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)No.3634 of 2025

and

C.M.P.(MD)No.19237 of 2025

Natchathira

... Petitioner

-VS.-

Joseph (Died)

1.Mary

2.Rani

3.Jessy

4.Benedict Anu

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India to call for the records pertaining to the fair order and decreetal order, dated 11.09.2025 made in I.A.No.7 of 2025 in O.S.No.139 of 2019 on the file of the Principal District Munsif Court, Valliyoor and to set aside the same.



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For Petitioner :Mr.S.R.Anbarasu
For R1 and R2 :Ms.M.Anubala
(Legal Aid)
For R3 and R4 :Mr.A.Lingeshwaran
(Legal aid)
For R2 to R4 :Mr.S.John Abraham Raja

ORDER

The present Civil Revision Petition has been filed challenging the order passed by the learned Principal District Munsif, Valliyoor, in I.A.No.7 of 2025 in O.S.No.139 of 2019, dated 11.09.2025.

2.Heard Mr.S.R.Anbarasu, learned Counsel for the Revision Petitioner, Ms.M.Anubala, learned Court appointed Legal Aid Counsel for the respondents 1 and 2, Mr.A.Lingeshwaran, learned Court appointed Legal Aid Counsel for the respondents 3 and 4.

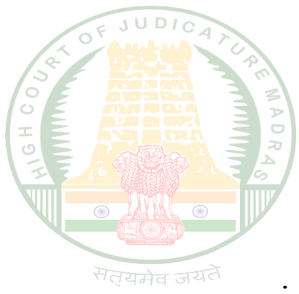
3.The petitioner is the plaintiff in O.S.No.139 of 2019 on the file of the Principal District Munsif Court at Valliyoor and the respondents are the defendants in the suit. The said suit was filed for partition and separate



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possession. During the pendency of the suit, the petitioner has filed an application in I.A.No.7 of 2025 under Order 23 Rule 1(3) and Section 151 CPC to permit the plaintiff to withdraw the suit with liberty to file a fresh suit with same cause of action. The learned Principal District Munsif, Vallioor vide impugned order, dated 11.09.2025, has dismissed the said application on the ground that the said application has not been filed before the commencement of trial. Challenging the same, the present Civil Revision Petition has been filed.

4.After receipt of notice, as the respondents did not appear before this Court, this Court appointed Ms.Anubala, learned Court appointed Legal Aid Counsel for the respondents 1 and 2 and Mr.A.Lingeshwaran, learned Court appointed Legal Aid Counsel for the respondents 3 and 4. However, thereafter, one Mr.S.John Abraham Raja, has filed vakalat for the respondents 2 to 4. The respondents 2 to 4 after receiving the notice and the notice specifies the hearing date has not appeared before this Court. Instead of passing the order in their absence, this Court has nominated two Legal Aid Counsel and filing a vakalat belatedly only reflects the scant respect shown by the respondents in

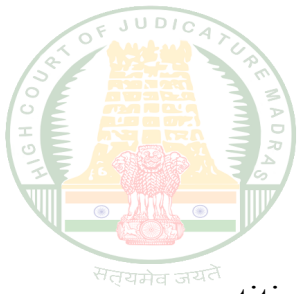


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engaging the Counsel leisurely to represent their case, which is highly deplorable and therefore, this Court need not hear the arguments of the Counsel, who has filed the vakalat for respondents 2 to 4.

5.Mr.S.R.Anbarasu, learned Counsel for the petitioner submitted that the petitioner's husband has executed a settlement deed with respect to the suit property on 07.08.2013 and on the basis of which, she obtained patta in patta No.1442 and the property has been sub divided and a new S.F.No.1089/2B has been allotted to the petitioner with respect to the suit property. Hence, the petitioner seeks further relief and and has filed the present application, which has been erroneously dismissed by the Court below. Further, as the petitioner has not impleaded the necessary parties, she has filed the present application and that the suit may be permitted to be withdrawn with liberty to file a fresh suit for the same cause of action. However, the Court below has erroneously dismissed the said application, which warrants interference of this Court.

6.Ms.Anubala, learned Counsel for the respondents 1 and 2 submitted that originally a suit in O.S.No.235 of 2013 was filed by one Joseph for



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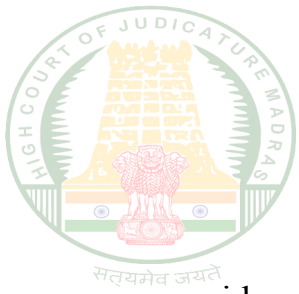
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partition between the same parties, who are having the right over the property and the said suit was dismissed for non-joinder of necessary parties. The said factum was available in typed of set of papers enclosed. The present revision petitioner has not verified the dismissal of the O.S.No.235 of 2013 and even in the present suit, the very same defect has been made out for which the earlier suit was dismissed. Hence, the trial Court has rightly dismissed the application, which does not warrant interference of this Court.

7.Mr.Lingeshwaran, learned Counsel for the respondents 3 and 4 has adopted the arguments as advanced by the learned Counsel for the respondents 3 and 4.

8.This Court considered the submissions made on either side and perused the materials available on record.

9.From the perusal records would reveal that for the very same cause of action, a suit in O.S.No.235 of 2013 was filed by one Joseph for partition between the same parties, who are having the right over the property and the

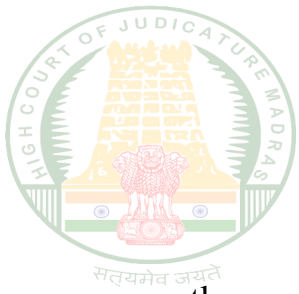


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said suit was dismissed for non-joinder of necessary parties. It is to be noted that the petitioner is also well aware of the said fact, as she herself has enclosed the judgment made in O.S.No.235 of 2013, dated 05.07.2019 in the typed set of papers. However, enclosure of such documents itself would not come to the rescue of the revision petitioner, as the original suit for partition was itself was dismissed for non-joinder of necessary parties in O.S.No.235 of 2013 and the said judgment was delivered on 05.07.2019, whereas, the present suit was filed in O.S.No.139 of 2019 on the very same year. The present revision petitioner has not verified the dismissal of the suit in O.S.No.234 of 2013 and even in the present suit, the very same defect has been made out for which the earlier suit was dismissed.

10.While dismissing the application filed by the petitioner, the trial Court has taken into consideration that PW-1 was examined and cross examination of PW-2; cross examination of the second defendant was completed and at this point of time, the present application has been filed, which is in the considered view of the this Court cannot accepted and without filing an amendment application to amend the plaint, the petitioner has filed

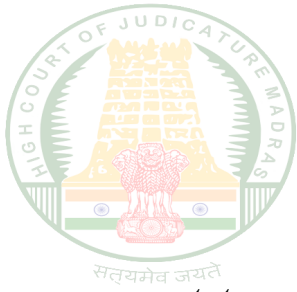


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the present application seeking permission to withdraw the suit is only to drag on the proceedings, which has to be deprecated by this Court. Even the trial Court has observed that the petitioner can very well file an amendment application, however, without resorting to the same, the petitioner has challenged the said order, which shows the intention of the petitioner.

11.In the result, the Civil Revision Petition is dismissed as devoid of merits with a cost of Rs.10,000/- imposed on the petitioner to be paid to the Tamil Nadu Legal Services Authority for filing such vexatious application in consciously knowing that earlier suit in O.S.No.235 of 2013 was dismissed for non-joinder of parties and very same defect was reflected in the present suit. The cost shall be paid within a period of one week from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

12.This Court placed its appreciation on the learned Court appointed Legal Aid Counsel for the respondent, who has rendered his effective submission for arriving at the appropriate decision. The High Court Legal Services Committee attached to this Bench shall pay a sum of Rs.10,000/- in



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toto as remuneration to the learned Court appointed Legal Aid Counsel, who is appearing for the respondent, within a period of two weeks from the date of receipt of a copy of this order.

13.For compliance, post the matter on 27.03.2026.

17.02.2026

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

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To

The Principal District Munsif, Valliyoor.



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N.SENTHILKUMAR, J.

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