

C.R.P.(MD)No.3328 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.3328 of 2025

and

C.M.P.(MD)No.18254 of 2025

T.Balakumar

... Petitioner

-VS.-

S.Karuppusamy

...Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair and decreetal order passed in C.M.A.No.30 of 2024 on the file of the Additional District Judge, Palani, dated 29.08.2025, reversing the fair and decreetal order passed in I.A.No. 1 of 2023 in O.S.No. 324 of 2022 on the file of the Additional Subordinate Judge, Palani, dated 09.01.2024.

For Petitioner :Mr.A.Mohamed Haneef
for Mr.D.Venkatesh
For Respondent :Mr.V.Dharanidharan



C.R.P.(MD)No.3328 of 2025

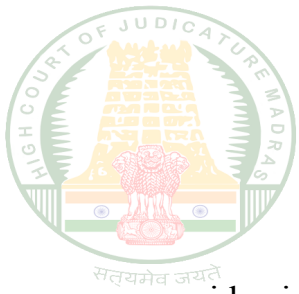
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ORDER

The present Civil Revision Petition has been filed challenging the order passed by the learned Additional District Judge, Palani, in C.M.A.No.30 of 2024, dated 29.08.2025.

2.Heard Mr.A.Mohamed Haneef, learned Counsel representing Mr.D.Venkatesh, learned Counsel for the Revision Petitioner and Mr.V.Dharanidharan, learned Counsel for the respondent.

2.The respondent, as plaintiff, has filed a suit in O.S.No.324 of 2022 before the Additional Subordinate Court, Palani, for partition, declaration and for other reliefs. During the pendency of the suit, the respondent has filed an application in I.A.No.1 of 2023 for temporary injunction restraining the petitioner herein from disturbing the possession. The said application was came to be dismissed by the trial Court vide order, dated 09.01.2024. Challenging the same, the respondent herein filed an appeal in C.M.A.No.30 of 2024 before the Additional District Court, Palani. The learned appellate Judge,



C.R.P.(MD)No.3328 of 2025

vide impugned order, dated had allowed the appeal vide order, dated 29.08.2025, by holding that “considering the actual illegal possession of the co-owner/purchaser of the petition property and in the interest of justice, this Court decides to set aside the order and decreetal order of the trial Court and grant temporary injunction against the respondent that the respondent should not alter the physical nature of the property and create any encumbrance in respect of the property.” Challenging the same, the present Civil Revision Petition has been filed.

3.Mr.A.Mohamed Haneef, learned Counsel for the petitioner submitted that in a partition suit, the grant of injunction itself will not arise, unless the Court determines the share with respect to the person, who have a right over the property and therefore, the trial Court did not grant the order of injunction and the same was challenged by the respondent by way an appeal. The first appellate Court has come to the conclusion that the co-owner of the purchaser, who has purchased the property, is in illegal possession and by modifying the claim in the injunction application, had directed not to encumber the property or to alter the physical nature, which is *per se* illegal. The first appellate Court



C.R.P.(MD)No.3328 of 2025

WEB COPY

erroneously granted an order of interim injunction without considering the provision under Section 44 of the Transfer of Property Act, which endorse the possession of transferee in the place of transferor as co-owner/co-sharer. It is his further contention that the first appellate Court ought to have seen that it is an admitted fact even by the respondent that the petitioner is in possession of shares sold to him. The first appellate Court without considering the well-considered finding of the trial Court regarding possession of the petitioner, has erroneously reversed the order of the trial Court, which needs interference of this Court and seeks necessary orders from this Court.

4.MrV.Dharanidharan, learned Counsel for the respondent submitted that the respondent has admitted that the revision petitioner is in actual possession of the property and therefore, if any alienation is made or if any alteration is made, that will affect his right. By considering the same, the first appellate Court has rightly granted the relief, which needs no interference of this Court. He relied upon a judgment of the Hon'ble Supreme Court in the case of *Ramdas vs Sitabai and others*, reported in **2009 (7) SCC 444**. He read the judgment of the Hon'ble Supreme Court and in particular paragraph No.14,

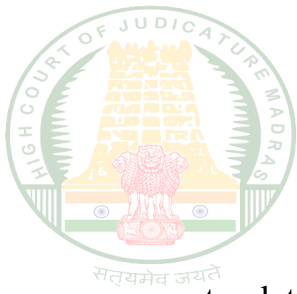


C.R.P.(MD)No.3328 of 2025

where, the Hon'ble Supreme Court has held that it is settled law that under the Transfer of Properties Act, a purchaser cannot have a better title than what his vendor had. The possession which is claimed by the defendant No.3 (Ramadas, appellant therein) in respect of the entire land bearing Gat No.19 area admeasuring 2.56 H of Mouza Padoli was also illegal and without proper sanction of law.

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

6.The petitioner, as plaintiff, has filed a suit for partition, recovery of possession and injunction and has filed an interlocutory application for temporary injunction, which was negatived by the trial Court and granted by the appellate Court in the appeal. In a suit for partition, whether the suit properties have been partitioned or not has to be decided only during the trial and in this case, the respondent himself has admitted that the petitioner is in actual possession and enjoyment of the suit property. However, in the plaint, it is stated that he is in possession of the suit property, which is contrary to the



C.R.P.(MD)No.3328 of 2025

WEB COPY

stand taken by the respondent in the interlocutory application. Further, the respondent has not filed any document to prove that he is in actual possession of the suit property. Unless and until, the respective shares and rights are determined by the trial Court, it can come to conclusion only after full fledged trial. Hence, the first appellate Court without properly considering the fact that it is a suit for partition and the petitioner herein is in actual possession of the suit property has granted an order of temporary injunction restraining the petitioner from enjoying the properties by himself, which needs interference of this Court.

7.The judgment relied upon by the learned Counsel for respondent dealt with a case of execution and here, the suit itself is for partition and therefore, the judgment relied upon by the learned Counsel for the respondent is not applicable to the facts of the present case.

8.In result, the Civil Revision Petition is allowed and the order passed by the learned Additional District Judge, Palani, in C.M.A.No.30 of 2024, dated 29.08.2025, is hereby set aside. No costs. Consequently, connected



C.R.P.(MD)No.3328 of 2025

miscellaneous petition is closed.

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9.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 *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.

17.02.2026

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

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To

- 1.The Additional District Judge, Palani.
- 2.The Additional Subordinate Judge, Palani.



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C.R.P.(MD)No.3328 of 2025

N.SENTHILKUMAR, J.

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C.R.P.(MD)No.3328 of 2025

17.02.2026