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C.M.P(MD)Nos.17081 and 17082 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 27.04.2026

Pronounced on : 09.07.2026

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

C.M.P(MD)Nos.17081 and 17082 of 2024

in

A.S(MD)No.231 of 2023

1.Kuttiraja,

S/o. Varaguna Ramapandia Chinnathambiar,
D.No.5-C Kodikulam Aranmanai Dam Road,
S.Kodikulam,
Koomapatti Post,
Virudhunagar District.

...Petitioner/Proposed 2nd Appellant
in C.M.P(MD)No.17081 of 2024

2.C.Jawahar,

S/o.V.Chelladurai @ Thiru Arasu Pandian,
1/84- Rams Blue Bay Villa 5,
East Coast Street,
Palavakkam,
Chennai – 600 041.

...Petitioner/Proposed 3rd Appellant
in C.M.P(MD)No.17082 of 2024

Vs.

1.Balakumari Nachiyar,

W/o.V.S.Varagunarama Pandya Chinna Thambiyar,
Sivagiri,
Tenkasi District.

...1st Respondent/Appellant

P.K.Muthukrishna Raja (Died)

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P.K.M.Pappammal (Died)

P.K.M.Thilagam (Died)

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2.P.K.M.Subramaniyan,
S/o.Late.P.K.Muthukrishna Raja (Died),
Door No.26A/21, Madha Kovil Street,
Sikkarajakottai,
Rajapalayam Town,
Virudhunagar District.

3.P.K.M.Gurusamy,
S/o.Late.P.K.Muthukrishna Raja,
Door No.26A/21, Madha Kovil Street,
Sikkarajakottai,
Rajapalayam Town,
Virudhunagar District.

4.Chellaraniammal,
W/o. Ramavarma Pandya Rettayar,
Sivagiri,
Nellai Kattabomman District.

5.Tamil Nadu Real Estates
Through its Managing Director,
Iesbagani (Died) / Keason,
D.No.151, Nungambakkam High Road,
Madras.

6.Jangan (Died)

7.Iswarya,
D/o.Janagan,
D.No.61/47A,
Pettairamasamyraja Street,
Rajapalayam Town,
Virudhunagar District.

...Respondents 2, 3, 4, 5 & 7 /
Respondents 1, 2, 3, 4 & 6



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COMMON PRAYER: These Civil Miscellaneous Petitions are filed under Order 1 Rule 10(2) of CPC., to implead the petitioners as 2nd appellant and 3rd appellant respectively in the first appeal.

In Both Petitions:

For Petitioners	: Mr.F.X.Eugene
For R1	: Mr.F.X.Eugene
For R5	: Mr.A.Sivaji
For R2, R3 & R7	: No Appearance
R4	: Dismissed (vide in appeal)
R6	: Died

COMMON ORDER

These Civil Miscellaneous Petitions are filed under Order 1 Rule 10 (2) of CPC., to implead the petitioners as 2nd appellant and 3rd appellant respectively in the first appeal in A.S(MD)No.231 of 2023.

2.The brief facts of the case:

The respondents 2 and 3, along with deceased plaintiffs, filed a suit in O.S.No.33 of 2004 on the file of the Principal District and Sessions Court, Virudhunagar District at Srivilliputhur against the respondents 1, 4 and 5 for partition of a 2/6 share in the suit property. The 4th respondent is the 1st defendant, the 5th respondent is the 2nd defendant and the appellant is



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the 3rd defendant in that suit. The appellant/3rd defendant remained ex-parte. After contest, the suit was dismissed by the trial Court by its judgment, dated 16.03.2023. Challenging the said judgment and decree, the appellant, who is the 3rd defendant (having remained ex-parte) has preferred the main first appeal in A.S(MD)No.231 of 2023 before this Court and the same is pending.

2.1.Pending disposal of the present appeal, the petitioners have filed these petitions to implead them as appellants 2 and 3, respectively, in the first appeal. The petitioners mainly averred that they are the legal heirs of one Ramavarma Pandiya Chinnathambiyar and that the 1st defendant Chellaraniammal, was added as legal representative of the same Ramavarma Pandiya Rettiyar, which is unknown to law, and so, the petitioners may be impleaded as parties to the appeal.

3.The learned counsel for the petitioners submitted that the 1st defendant in the main suit was added in a representative character. There are no such provisions in Order 1 Rule 8 of CPC. In earlier legal proceedings regarding the properties of the last Zamindar of Sivagiri, which went up to this Court and in that proceeding, the shares of legal heirs were



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decided, and the petitioners' share was already decided. The said judgment of

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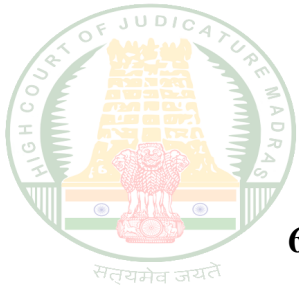
4.The learned counsel for the 5th respondent has vehemently contended that the original plaintiff filed the suit in O.S.No.299 of 1996 against the 1st defendant Chellaraniammal for herself and as representative of the Varagunarama Pandya Chinna Thambiyar Legal Heirs, i.e., LRs of Sivagiri Zamindar. The said suit was contested by the 1st defendant. Later, the suit was dismissed. The appellant, who is 3rd defendant, remained ex-parte in that suit and after dismissal of the suit, filed the present appeal. The petitioners claiming to be LRs of Sivagiri Zamindar have not filed any document to show their status. However, the 1st defendant representing Sivagiri Zamindar contested the suit and the suit ended in dismissal. If the petitioners have stated that an earlier suit was already proceeded and went to the High Court, and their shares were already decided. So, they can very well



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file a separate suit. Since the suit is of the year 1996 and pending appeal stage, the petitioners have filed these petitions only to protract the proceedings. Hence, the petitions may be dismissed.

5.Heard both sides and perused the material in these Civil Miscellaneous Petitions. The main suit in O.S.No.33 of 2004 on the file of the Principal District and Sessions Court, Virudhunagar District at Srivilliputhur is filed by (1) P.K.Muthukrishna Raja (died), (2)Subramaniyan, (3)Pappammal (died), (4)Gurusamy and (5)Thilgam against the defendants (1) Chellaraniammal for herself and as representative of the Varagunarama Pandya Chinna Thambiyar Legal Heirs; (2) M/s.Tamil Nadu Real Estate, through its Managing Director, Ispahani and (3) Balakumari Nachiyar. The said suit was contested by the 1st defendant, Chellaraniammal, representing Varagunarama Pandya Chinna Thambiyar Legal Heirs. The appellant Balakumari Nachiyar, who is admittedly 3rd defendant wife of Varagunarama Pandya Chinna Thambiyar remained ex-parte and has not contested the suit.



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6.The petitioner in C.M.P.No.17081 of 2024 is claiming that he is the son of Varaguna Rama Pandiya Chinnathambibar. The petitioner in C.M.P.No.17082 of 2024 claims that he is the son of one Chelladurai @ Thiru Arasu Pandian, who was born to Ramavarma Pandiya Chinnathambiar through a concubine Chellappappal @ Rajarathinam. On perusal of the affidavit, the ages of the respective petitioners are 62 and 72 years. The main contention of the contesting 5th respondent, who is the 2nd defendant in the main suit, is that originally the main suit was filed in the year 1996 and thereafter, upon revision of pecuniary jurisdiction, the suit was transferred to the Principal District Court, Srivilliputhur, and renumbered as O.S.No.33 of 2004. The present appellant/3rd defendant, Balakumari Nachiar, claiming to be legal heir of Zamindar Branch, filed a petition in O.S.No.302 of 1997 for impleading herself as a party and the same was allowed on 27.11.1998. So, the petitioners could have very well known about the suit proceedings in the early years and they failed to file petitions.

7.However, it is pertinent to note that the 1st defendant, Chellaraniammal was impleaded as the representative of Ramavarma Pandiya Chinnathambiar. If so, really, the petitioners could have had knowledge about the suit proceedings, but failed to take steps at an earlier



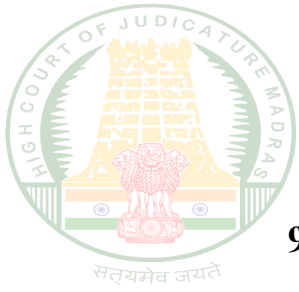
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point of time. The original plaintiffs who sought a 2/6 share in the suit

properties failed to prove their case and later the suit came to be dismissed.

In that suit, the appellant/3rd defendant did not put forth any case, but remained ex-parte. Now, the petitioners seek to implead them as parties to the appeal as their share has already been decided in an earlier suit, which was decided upto the High Court.

8.The contesting 5th respondent's main contention is that they have purchased the suit property from a proper, rightful vendor and in order to defeat their right over the suit property, the petitioners attempted to drag the proceedings. There is no dispute that the 1st defendant, Chellaraniammal, Representative of Varagunrama Pandiya Chinna Thambiyar Legal Heirs, contested the main suit and the suit was dismissed on merits. The defendant who remained ex-parte in the main suit has filed the present appeal. Though the petitioners have stated that they are somewhat legal heirs of Varagunarama Pandiya Chinnathambiyar they have not produced any document to show their capacity and to show their right over the suit property.



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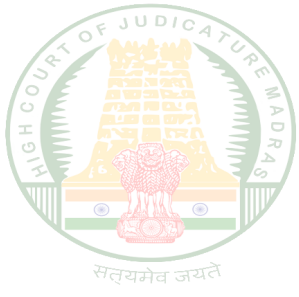
9.On perusal of records, it is pertinent to note here that the counsel for

the petitioners and the 1st respondent, i.e., Balakumari Nachiyar, is one and the same. There is no acceptable reason assigned on the petitioners' side. Therefore, the contention of the contesting 5th respondent that the petitioners can file a separate suit to prove their stand over the suit property holds merit. Therefore, considering the above facts and circumstances of the case, this Court is not inclined to allow these petitions.

10.In the result, these Civil Miscellaneous Petitions are dismissed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
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in
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