



C.R.P.No.1141 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

**C.R.P.No.1141 of 2022
and C.M.P.No.5938 of 2022**

- 1.Ponmani
- 2.Kalamani
- 3.Maniveni
- 4.Balakrishnan (Died)
- 5.Kannappan @ Kannappa Nayanar
- 6.B.Neelaveni
- 7.B.Anbarasu
- 8.B.Anbalagan

... Petitioners

*(*P6 to P8 were brought on record as LR's of the deceased petitioner No.4 vide order dated 14.09.2022 made in C.M.P.No.15314 of 2022 in C.R.P.No.1141 of 2022 *)*

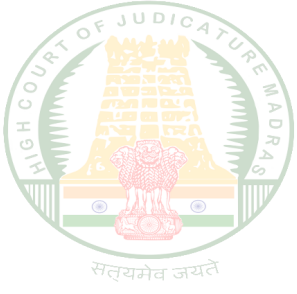
Vs.

- 1.R.Sathiaraj
- 2.M.Ranganathan

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 11.01.2022 made in I.A.No.3 of 2019 in O.S.No.1183 of 2019 passed by the Principal District Munsif Court, Coimbatore.

For Petitioners : Ms.B.Sruti



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for Ms.A.Jagadeeswari

For Respondents : Mr.C.Veera Raghavan

ORDER

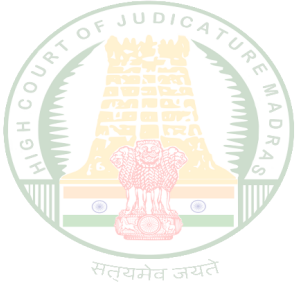
This Civil Revision Petition arises against the order dated 11.01.2022 passed by the learned Principal District Munsif Judge at Coimbatore in I.A.No.3 of 2019 in O.S.No.1183 of 2019.

2. The defendant Nos.2 to 6 are the civil revision petitioners.

O.S.No.1183 of 2019 was presented for the following reliefs:-

"அ) கடந்த 20.04.1956-ம் தேதி அன்று 2 முதல் 6 பிரதிவாதிகளின் தகப்பனாரான வெங்கடாசலம் பெயரளவில் ஏற்படுத்திக் கொண்ட பாக சாசன பத்திர எண்.1004/1956 ஆவணத்தை செல்லத்தக்கதல்ல என்று விளம்புகை பரிகாரம் வழங்குமாறும்

ஆ) தாவா சொத்தினை பிரதிவாதிகளோ அவர்களது ஆட்களோ, பிரதிவாதிகளின் அதிகாரம் பெற்ற நபர்களோ எந்த விதத்திலும் மூன்றாம் நபருக்கு விற்கவோ வில்லங்க விவகாரத்துக்கு உட்படுத்தவோ கூடாது என்று



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நிரந்தர உறுத்துக்கட்டளை பரிகாரம்

வழங்கும்படியும்

இ) இவ்வழக்கிற்கான செலவுத் தொகையை
பிரதிவாதிகள் கொடுக்குமாறும் மற்றும்

ஈ) இம்மாண்மை நீதிமன்றம் இந்த வழக்கு
சூழ்நிலைக்கு தக்கதென கருதும் இன்ன பிற
பரிகாரங்களை வழங்குமாறு வாதி பணிவுடன்
பிரார்த்தித்துக்கொள்கிறார்."

3. The relationship between the parties is not in dispute. The property belonged to one Kaliyanna Gounder. The said Kaliyanna Gounder had three daughters and two sons. The daughters are

- (i) Jeyalakshmi,
- (ii) Maruthukutti, and
- (iii) Lakshmi,

and the sons are

- i) Venkatachalam, and
- ii) Shanmugam



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4. Kaliyanna Gounder and his two sons entered into a partition deed on 20.04.1956. In terms of the deed, Venkatachalam and Shanmugam took possession of the properties.

5. The plaintiff, Sathiaraj, is the grandson of Jeyalakshmi. He impleaded his father as the first defendant and the legal heirs of Venkatachalam as the defendants 2 to 7. His claim is that the partition deed dated 20.04.1956 in Document No.1004 of 1956 never came into force. He further pleaded that despite the document, the plaintiff and the defendants were in joint possession and enjoyment of the same. He added that the properties are ancestral properties of Kaliyanna Gounder and therefore, he came forth with the suit for the aforesaid reliefs.

6. The defendants 2 to 6 filed an application for rejection of plaint. According to them, the daughters do not have a share in the ancestral properties as they had married prior to 1989, and also on the ground that the legal heirs of Shanmugam had not been impleaded as parties. They also pleaded that the suit is barred by time.



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7. The learned trial Judge received this application as I.A.No.3 of 2019. He called upon the plaintiff to file a counter. He presented a counter pleading that the limitation, being a mixed question of law and fact, it has to be gone only at the time of trial, and that the suit is posted for filing of written statement of the defendants, and only in order to prolong the proceedings, they have filed an application for rejection of plaint. The pleas taken by the plaintiff persuaded the learned Principal District Munsif Judge to dismiss the petition. Hence, the revision.

8. I heard Ms.B.Sruthi, for Ms.A.Jagadeeswari and Mr.C.Veera Raghavan, for the respective parties.

9. Learned counsel appearing for the parties reiterated the contentions they placed before the trial Court.



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10. In the case of rejection of plaint, I cannot go into the defence that has been raised by the defendants. I have to read the plaint alone and find out if the plaint attracts any of the provisions of Order VII Rule 11(a) to (f) CPC.

11. The admitted case of the plaintiff is that there was a partition deed entered into between his granduncles, namely, Shanmugam and Venkatachalam on 20.04.1956. He also pleads that being ancestral properties, he would have a share in the same. It is not in dispute across the Bar that the grandmother, through whom the plaintiff claims, was married much prior to 1989. If that be the position, obviously the plaintiff is not pegging his right invoking Section 29(A) of the Tamil Nadu Amendment to the Hindu Succession Act.

12. Mr.Veera Raghavan, pleads that he is entitled to make a claim by virtue of amendment made to the Hindu Succession Act by the Parliament to Section 6 of the Hindu Succession Act. This immediately poses two difficulties for Mr.Veeraraghavan.



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13. The first one being the very Section itself. The Proviso appended to Section 6(1) of the Act specifically states that Sub-Section (1) will not affect or invalidate any disposition or alienation including any partition or testamentary disposition of property, which had taken place before 20th of December 2004. 1956 obviously being before 2004, the Proviso stares at the plaintiff's face.

14. Furthermore, Mr.Veera Raghavan admits that Jeyalakshmi, daughter of Kaliyanna Gounder had passed away on 21.11.2004. This is atleast a month before amendment to the Hindu Succession Act had come into force.

15. For the purpose of invoking the jurisdiction of the civil Court under Section 9 of Code of Civil Procedure, the plaintiff must have an actionable right which had been infringed giving a cause of action. When the plaintiff has no cause of action by virtue of proviso to Section 6(1) of the Hindu Succession Act, as well as on account of the death of his

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grandmother, a month before the amendment had come into force, keeping the plaint on file would be a clear abuse of process of the Court.

16. The learned trial Court should have invoked Order VII Rule 11(a) C.P.C and ought to have come to a conclusion that the suit has no cause of action.

17. Apart from that, the document had been registered in the year 1956. The suit came to be filed in the year 2019. In order to set aside the document, the period of limitation granted under Part-IV of the Limitation Act, 1963, is three years. Even if Jeyalakshmi had wanted to set aside the document, she should have done so by 1959. The family had missed the bus, atleast five decades, before the suit came to be presented. When Jeyalakshmi herself could not have claimed any right, her grandson obviously cannot have any claim. Consequently, the impugned order dated 11.01.2022 passed in I.A.No.3 of 2019 in O.S.No.1183 of 2019 by the learned Principal District Munsif Judge at Coimbatore, is set aside.



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18. Accordingly, the Civil Revision Petition is allowed. The suit in O.S.No.1183 of 2019 shall stand rejected. There shall be no order as to costs. Connected miscellaneous petition is closed.

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Index: Yes / No
Speaking Order : Yes / No
Neutral Citation: Yes / No
ssb

To
The Principal District Munsif Court, Coimbatore.



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V.LAKSHMINARAYANAN, J.

ssb

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