

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.03.2016

CORAM

THE HONOURABLE Mr. JUSTICE P.R.SHIVAKUMAR

C.R.P.[PD] No.652 of 2016
and C.M.P.No.3343 of 2016

D.N.Madheeswaran

... Petitioner

Vs

Sakkubai [died]

1.Praba

2.Usha

3.D.R.Mohan

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair order and decretal order dated 21.12.2015 made in I.A.No.140 of 2015 in O.S.No.10 of 2011 on the file of the Principal District Court, Dharmapuri.

For Petitioner : Mr.R.Rajaramani

For 3rd Respondent : Mr.C.Munusamy

ORDER

The plaintiff in the Original Suit is the petitioner in the revision. The respondents are the defendants in the Original Suit. 3rd respondent has entered appearance by filing a caveat.

2. The submissions made by Mr.R.Rajaramani, learned counsel for the petitioner are heard. The submissions made by Mr.C.Munusamy, learned counsel for the caveator/3rd respondent are also heard.

3. The suit was filed originally for the relief of partition and separate possession claiming 1/3rd share in the suit properties. After the filing of the written statement by the defendants, the petitioner herein/plaintiff moved an application in I.A.No.140 of 2015 for amendment of the plaint to include a prayer for declaration that the sale deeds relied on by the 4th defendant, which are six in number, to be null and void. The prayer to declare the sale deeds null and void is nothing but a prayer to set aside the sales. The said prayer shall be barred by limitation and that is the reason, why the petitioner has chosen to make an attempt to include such a prayer in the plaint by way of an amendment. If at all, the plaintiff was not a party to those documents, he can very well contend in his suit for partition that the documents will not bind his share. Since he was a party to the documents, the limitation for setting aside the said sales shall be three years from the date of the petitioner attaining majority.

4. As per the plaint, the petitioner was aged 50 years as on the date of filing of the plaint itself. As on the date of filing of the amendment petition, he was 54 years old. In any event, a time barred plea was sought to be introduced by way of amendment and the same was properly considered by the trial Court correctly rejected the permission to effect the proposed amendment. This Court does not find any reason to interfere with the order of the trial Court and the revision is bound to fail. Accordingly, the revision petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

01.03.2016

gya

P.R.SHIVAKUMAR, J.

gva

To
The Principal District Judge,
Dharmapuri.

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