



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2017

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)No.2574 of 2016 (PD)
& C.M.P.(MD)No.12150 of 2016

- 1.S.Marikannu
- 2.S.Rajammal
- 3.S.Lakshmi
- 4.S.Muthusamy

.. Petitioners/Petitioners

Vs.

- 1.Somasundaram, S/o.Subramaniyapillai
- 2.Arunachalam, S/o.Subramaniyapillai
- 3.Sivakamasundari, W/o.Chandrasekar
- 4.Rajeswari, W/o.Shanmugam
- 5.S.Ilango, S/o.Shanmugam
- 6.Ramalakshmi, W/o.Palani
- 7.Rajagopal, S/o.Kaliyappa Naicker
- 8.Rajaram, S/o.Muthuramalingam

9.The Managing Director,
The Janakiraman Mills Ltd.,
Sakthi Nagar, Rajapalayam Town,
Virudhunagar District.

10.The Branch Manager,
Indian Overseas Bank,
Karivalamvathanallur,
Sankarankovil Taluk,
Tirunelveli District.

11.The Branch Manager,
Indian Overseas Bank,
Sattur.

12.The Branch Manager,
State Bank of India,
Main Road, Sattur.

13.The Sub-Registrar,
Office of the Sub-Registrar,



14.The Municipal Commissioner,
Office of the Sattur Municipality,
Sattur.

15.S.Muthusamy

.. Respondents/Respondents

[Respondents 9, 10, 13 & 14 herein remained
ex-parte before the Court below and therefore,
they are given up in this C.R.P.]

PRAYER: Civil Revision Petition is filed, under Article 227 of the
Constitution of India, against the order and decree, dated
04.10.2016, passed in Tr.O.P.No.17 of 2015, by the learned
Principal District Judge, Virudhunagar District at Srivilliputhur.

For Petitioners : Mr.S.Kumar
for Mr.H.Arumugam

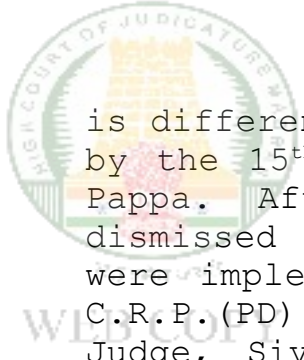
For R1 to R7 : Mr.K.Sekar

For 15 : Mr.M.Solaisamy

ORDER

This Civil Revision Petition is filed against the order and
decree, dated 04.10.2016, passed in Tr.O.P.No.17 of 2015, by the
learned Principal District Judge, Virudhunagar District at
Srivilliputhur.

2.The petitioners are plaintiffs in the suit in O.S.No.45 of
2014 on the file of the District Munsif Court, Sattur. They filed
the suit against the respondents 1 to 8 and 13 herein for
declaration to declare that the sale deed, dated 25.07.2013, as
null and void and also for other consequential reliefs. Their
father Sakkarai @ Pappa filed O.S.No.25 of 2007 against the
respondents 1 to 4, 15 and 9 to 12, before the Subordinate Court,
Sivakasi, for declaration to declare that the Will, dated
11.07.1988, as null and void and for partition and also for other
consequential reliefs. After the death of petitioners' father,
the petitioners were impleaded as plaintiffs in O.S.No.25 of 2007.
15th respondent filed O.S.No.41 of 2012 against the respondents 1
to 4, Marikannu, Rajammal, Lakshmi, 15th respondent and respondents
9, 11 to 14 and one G.P.Rajasekaran, for declaration to declare
that the Will, dated 11.07.1988, is valid and other consequential
reliefs. According to the petitioners, the properties involved in
all the three suits are one and the same. The respondents denied
the said averment and submitted that the plaintiff in O.S.No.25 of
2007 is not the plaintiff in O.S.No.41 of 2012 and O.S.No.45 of 2014.
The parties in O.S.Nos.25 of 2007, 41 of 2012 and 45 of 2014 are
not one and the same. The relief sought for in O.S.No.45 of 2014



is different from the relief sought for in O.S.No.41 of 2012 filed by the 15th respondent and O.S.No.27 of 2007 filed by Sakkarai @ Pappa. After the death of Sakkarai @ Pappa, O.S.No.25 of 2007 was dismissed as abated, as no legal heirs of said Sakkarai @ Pappa were impleaded. This Court, by order dated 19.03.2015, made in C.R.P.(PD)(MD)No.544 of 2015, directed the learned Subordinate Judge, Sivakasi, to dispose of O.S.No.41 of 2012 on or before 31.12.2015. The said suit is ripe for trial. 15th respondent has made arrangement to file proof affidavit. Only to drag on the proceedings, the petitioners have filed Tr.O.P.No.17 of 2015 and prayed for dismissal of Tr.O.P.

3.The learned Principal District Judge, Virudhunagar District at Srivilliputhur, considering the fact that O.S.No.25 of 2007 was dismissed as abated and also taking note of the fact that this Court passed an order, dated 19.03.2015, in C.R.P.(PD)(MD)No.544 of 2015, directing the learned Subordinate Judge, Sivakasi, to dispose of O.S.No.41 of 2012 on or before 31.12.2015, dismissed Tr.O.P. filed by the petitioners.

4.Against the said order of dismissal dated 04.10.2016, the petitioners have come out with the present Civil Revision Petition.

5.I have heard Mr.S.Kumar, learned counsel, representing for Mr.H.Arumugam, learned counsel for the petitioners, Mr.K.Sekar, learned counsel for the respondents 1 to 7 and Mr.M.Solaisamy, learned counsel for the 15th respondent and perused the materials available on record.

6.From the materials available on record, it is seen that the relief sought for in O.S.No.45 of 2014 and other suits are not one and the same. Further, as per direction of this Court, dated 19.03.2015, in C.R.P.(PD)(MD)No.544 of 2015, O.S.No.41 of 2012 is being taken up for trial. In the circumstances, the contention of the petitioners that unless O.S.No.45 of 2014 is transferred to the Subordinate Court, Sivakasi, and tried along with O.S.Nos.25 of 2007 and 41 of 2012, there is a possibility of contradictory judgment being rendered in the suit, is untenable. In the circumstances, there is no irregularity or illegality in the order dated 04.10.2016, passed in Tr.O.P.No.17 of 2015, by the learned Principal District Judge, Virudhunagar District at Srivilliputhur. Hence, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

/True Copy/



smn2

To

1.The Principal District Judge,
Virudhunagar District at Srivilliputhur.

2.The Branch Manager,
Indian Overseas Bank,
Karivalamvanthanallur,
Sankarankovil Taluk,
Tirunelveli District.

3.The Branch Manager,
Indian Overseas Bank,
Sattur.

4.The Branch Manager,
State Bank of India,
Main Road, Sattur.

5.The Sub-Registrar,
Office of the Sub-Registrar,
Sattur.

6.The Municipal Commissioner,
Office of the Sattur Municipality,
Sattur.

+1CC to Mr.Sekar, Advocate Sr.No.12358
+1CC to Mr.Solaisamy, Advocate Sr.No.12209
+1CC to Mr.H.Arumugam, Advocate Sr.No.12132

GJM/RR/17.3.17-4p-10C

C.R.P (MD) No.2574 of 2016 (PD)
& C.M.P. (MD) No.12150 of 2016
02.03.2017