

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2018

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.R.P.(PD).No.4512 of 2013

&

M.P.No.1 of 2013

Sournalakshmi

.. Petitioner

..Vs..

1.Saroja

2.Selvanayagam

3.G.Jayaraman

4.Karthick

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 05.10.2013 made in I.A.No.87 of 2013 in O.S.No.30 of 2008 on the file of the District Judge, Thiruvarur.

For Petitioner

: Mr.Venkataramani

Senior Counsel,

for Mr.V.Kasinatha Bharathi

For Respondent 1

: Mr.R.Vasudevan

**ORDER**

The instant revision has been filed challenging the order dated 05.10.2013 passed by the learned District Judge, Thiruvarur in I.A.No.87 of 2012 in O.S.No.30 of 2008.

**Brief facts leading to the filing of the instant revision:**

2. The first respondent filed a suit O.S.No.27 of 2007 before the learned District Judge, Nagapattinam which was subsequently renumbered as O.S.No.30 of 2008 on the file of the learned District Judge, Thiruvarur, against the respondents 2 to 4 for declaration that she is the absolute owner of the suit schedule property and she has also sought for recovery of possession as well as for mesne profits in the suit. The second respondent is the brother of the first respondent and the third and the fourth respondents are the pendente lite purchasers of the suit schedule property. It is the case of the first respondent, as seen from the plaint averments that she was in Singapore and she appointed her brother namely the second respondent as her power agent and he misused the funds given by her for the purpose of constructing the house. She has also stated in the plaint that the power of attorney dated

12.08.1976 was subsequently cancelled on 05.10.1983, due to the misuse of the power of attorney by the second respondent. The second respondent has also illegally executed a sale deed dated 05.10.1987 in favour of the third and fourth respondents. The second, third and fourth respondents have also filed their written statement in the suit.

3. During the pendency of the suit, the petitioner claiming to be running a school in the suit schedule property filed I.A.No.87 of 2013 in O.S.No.30 of 2008 seeking to implead herself as a fourth defendant in the suit O.S.No.27 of 2007. A counter affidavit was also filed by the petitioner stating that the petitioner is none other than the wife of the fourth respondent, Karthick and daughter-in-law of the third respondent, G.Jayaraman and that she has no independent interest or in possession of the suit schedule property. The first respondent has also denied in his counter affidavit that the petitioner is in possession of the suit schedule property and is running a school. The Trial Court after considering the materials available on record as well as the pleadings has dismissed I.A.No.87 of 2013 in O.S.No.30 of 2008 on 05.10.2013 on the ground that the petitioner has not produced any proof to show that she is in possession of the suit schedule property and is running a school and

further has observed that the petitioner being the wife of the fourth respondent, Karthick and daughter-in-law of the third respondent, G.Jayaraman has been set-up by them to protract the proceedings in the suit.

4. Aggrieved by the dismissal of I.A.No.87 of 2013 in O.S.No.30 of 2008, the instant revision has been filed.

5. Heard, Mr.Venkataramani, Senior Counsel for the petitioner and Mr.R.Vasudevan, learned counsel for the first respondent.

**Discussion:**

6. It is an admitted fact that the petitioner is the wife of the fourth respondent, Karthick and the daughter-in-law of the third respondent, G.Jayaraman who are the second and third defendants in the suit O.S.No.30 of 2008 filed by the first respondent. The suit has been filed by the first respondent for declaration that she is the absolute owner of the suit schedule property and she has also sought for recovery of possession as well as for mesne profits from the respondents 2 to 4.

7. The Trial Court under the impugned order has duly considered the affidavit and counter affidavit filed by the respective parties and

only thereafter, has come to the conclusion that the petitioner being the wife of the fourth respondent, karthick and the daughter-in-law of the third respondent, G.Jayaraman does not have any independent interest or is in possession of the suit schedule property as she has not produced any documentary evidence to prove that she is running a school as alleged by her in her affidavit filed in support of I.A.No.87 of 2013.

**Conclusion:**

8. This Court has also examined the impugned order and does not find any infirmity in the findings of the Trial Court. In the result, there is no merit in the instant petition. Accordingly, the Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No cost.

03.12.2018

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Note: Issue order copy on 07.12.2018

Index:Yes/No

Internet:Yes/No

Speaking/Non-speaking orders

ABDUL QUDDHOSE, J.

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To

The District Judge,  
Thiruvavarur.



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