



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP (MD) No.2069 of 2017 (PD)

and

CMP (MD) No.10272 of 2017

M.Kallanai Ambalam

...Revision Petitioner /Defendent

Vs.

M.Sekar

... Respondent / Plaintiff

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 27.07.2017 made in I.A No.316 of 2016 in O.S No.122 of 2013 on the file of the District Munsif Court, Madurai Taluk, Madurai.

For Petitioner

: Mr.PT.S.Narendravasan

For Respondent

: Mr.J.Gunaseelan Muthaiah

ORDER

The defendant in O.S No.122 of 2013 on the file of the District Munsif Court, Madurai Taluk, Madurai is the revision petitioner herein. The suit was filed by the respondent herein seeking the relief of declaration, mandatory injunction and permanent injunction. After the conclusion of the trial, at the stage of arguments, the plaintiff filed I.A No.316 of 2016 for amending the plaint. The plaintiff wanted to include a prayer for declaration declaring the document dated 21.04.1994 as null and void. That is a sale deed executed in favour of the revision petitioner by one Muthuramalingam.

2.Heard the learned counsel on either side.

3.Admittedly, the respondent is not a party. The suit is one for declaration of the respondent's rights over the suit property. Therefore, even without impeaching the said sale deed, the respondent can very well establish his rights. That apart, impeaching the document 22 years, after it was executed, cannot be allowed. As rightly pointed out by the learned counsel for the revision petitioner, the respondent is not a party to the said document. Therefore, by allowing the amendment application, the court below committed a clear error. It is also seen that the



application is highly belated. The order impugned in this civil revision petition is set aside.

4. This Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

The District Munsif Court,
Madurai Taluk, Madurai.

+1cc to Mr.P.T.NARENDRAVASAN, Advocate, Sr.No.85506.
+1cc to Mr.J.GUNASEELAN MUTHIAH, Advocate, Sr.No.85538.

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KK/SKN/SAR 4/26.10.2018/2P/4C