

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2019

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

C.R.P. No.1810 of 2019 & C.M.P.No.11900 of 2019

1.Arani
2.Krishnaveni
3.Rajeswari
4.M.Govindasamy
5.M.Thiruveethi

... Petitioners

-Vs-

1.Dhanalakshmi
Palayam alias Lakshmi (deceased)
2.M.Sekar
3.M.Kuppusamy
4.Vanaja
5.K.Suresh
6.Surya
7.Ramani
8.P.Praveen
9.Amudha

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India against the order dated 27.02.2019 passed in I.A.No.2653 of 2018 in O.S.No.6707 of 2014 on the file of the XII Assistant Judge, City Civil Court, Chennai.

For Petitioners : Mr.Nelliappan

For Respondents : Mr.S.Bhuvaneswaran - for R1

O R D E R

This revision petition has been filed as against the fair and decreetal order dated 27.02.2019 passed in I.A.No.2653 of 2018 in O.S.No.6707 of 2014 on the file of the XII Assistant Judge, City Civil Court, Chennai.

2. The revision petitioners are the defendants before the Court below and the first respondent / plaintiff filed I.A.No.2653 of 2018 in O.S.No.6707 of 2014, to amend the pleading in the plaint with regard to the prayer of declaration

pertaining to a release deed dated 05.04.1982 registered as Document No.1045 of 1982 in the office of the Sub-Registrar, Madras North. The said amendment has been allowed by the Court below through the impugned order, as against which the present revision has been filed.

3. Heard Mr.Nelliappan, learned counsel for the petitioners, who would submit that in the year 2015 itself, a written statement was filed on behalf of the revision petitioners and in the written statement, they revealed that the release deed has been made in the year 1982 itself by the plaintiff. He further submits that even though the plaintiff had been put on notice that the release deed has already been there, immediately she should have acted upon instead of having waited for three years. The present I.A. was filed in the year 2018 and therefore what diligence and care she has taken to file this I.A to make an amendment has not been explained to the satisfaction of the Court and since the impugned order has been passed by the Court below without having satisfied with the above factor, the said order requires to be interfered with.

4. I have also heard Mr.S.Bhuvaneswaran, learned counsel for the respondents, who would submit that, during the pendency of the suit, it has been referred to Mediation, where for the first time, the defendants especially the sixth defendant had brought to the notice of the plaintiff that there had been a release deed dated 05.04.1982 vide Document No.1045 of 1982 and on showing the document and its veracity, the plaintiff came to the conclusion that it was a fraudulent one and sought for amendment of the prayer. Having considered the said aspect, the lower Court has allowed the amendment and unless and until the amendment petition is allowed, the issue with regard to the validity of the release deed dated 05.04.1982 cannot be adjudicated in any other forum and therefore, the said order allowing the amendment is quite necessary and justifiable and the same requires no interference by this Court.

5. I have heard the learned counsel appearing on both sides and considered the materials placed on record.

6. As rightly pointed out by the learned counsel for the first respondents / plaintiff, for the first time the release deed in question has been brought to the notice of the plaintiff at the time of Mediation. Even though some averments might have been made by the defendants in the written statement, the actual copy of the deed has been shown to the plaintiff only at the time of Mediation and therefore, immediately she acted upon and filed the Interlocutory Application and hence, it cannot be said that the first respondent / plaintiff has not taken any due diligence in filing the amendment petition.

7. Moreover, when the release deed has been questioned by the plaintiff as if it is a fraudulent document, the veracity of the document also can very well be adjudicated in the pending suit itself, without which the issue raised in the suit cannot be adjudicated effectively and completely. In that view of the matter, this Court finds no infirmity in the order passed by the learned Judge and the same does not warrant any interference by this Court.

8. In result, the Civil Revision Petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed. However, it is made clear that the trial Court is hereby directed to take up the suit and complete the trial as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

KST

To

XII Assistant Civil Judge
City Civil Court, Chennai.

+1cc to Mr.D.Nelliappan, Advocate, S.R.No. 77831

C.R.P.No.1810 of 2019

GP(CO)
GN(18/10/2019)