



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 25.04.2019

DELIVERED ON : 30.04.2019

WEB COPY

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (PD) (MD) No. 2096 of 2015

1. Pattu
2. Arivalagan
3. Madurai Muthu
4. D. Chellappan

.. Petitioners/Respondent/Defendant
Vs.

P. Murugesan

.. Respondent/Petitioner/Plaintiff

Prayer: This Civil revision petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 11.03.2015 made in I.A.No.1597 of 2014 in O.S.No.152 of 2006 on the file of the Additional District Munsif Court, Lalkudi.

For Petitioners : Mr.V.George Raja
For Respondent : Mr.R.Subramanian

ORDER

Heard Mr.V.George Raja, learned counsel appearing for the petitioners and Mr.R.Subramanian, learned counsel appearing for the respondent.

2.This Civil Revision Petition has been filed against the order passed in I.A.No.1597 of 2014 in O.S.No.152 of 2006 dated 11.03.2015 on the file of the learned Additional District Munsif, Lalkudi.

3.The petitioners herein are the defendants and the respondent herein is the plaintiff in the suit. The respondent herein has filed a suit in O.S.No.152 of 2006 for a prayer of permanent injunction against the defendants. In that suit, the respondent filed a petition in I.A.No.1597 of 2014 under Rule 3 of C.P.C., to receive the reply statement. The petition was allowed by the trial Court. Against which, the petitioner has come forward with the present revision petition.

4.On the side of the petitioners, it is stated that after the closure of the trial, the petition to receive the document was filed by the respondent and the petition was allowed. The suit was filed in the year 2006 for a simple prayer of injunction claiming that the suit property was the family property allotted to his share. Even in the written statement it is stated that the father



of the plaintiff executed a registered settlement deed in favour of the first defendant and the defendants are in possession of the property. The plaintiff was examined in full. The respondent is not taken any steps to file a reply statement. Though written statement was filed in the year 2004 itself, the respondent filed this petition only in the year 2015, when the suit was posted for further evidence on the side of plaintiff. This petition is not maintainable and that allowing this petition will change the nature of the case. This pleading cannot be entertained after the expired of 10 years. There is no due diligence on the part of the plaintiff and prayed the revision petition to be allowed.

5. On the side of the respondent, it is stated that only when the plaintiff was cross examined, the plaintiff came to know about the document and the plaintiff filed an amendment petition to deny the settlement deed. No settlement was claimed by the petitioners. After the death of their father, only in the written statement, it is stated that no additional point is added. Only in the reply statement, the settlement deed is denied. No prejudice will be caused to the petitioners and no new cause of action is raised and prayed the petition to be dismissed.

6. A perusal of the records reveals that even in the written statement in paragraph no.13, the settlement deed was mentioned. The written statement was filed in the year 2010 and there is a delay in filing this petition. The suit is not for declaration of title and the question of title need not be decided in the suit. The denial of the settlement deed is not necessary in the injunction suit. There is an inordinate delay in filing the I.A. petition to receive the reply statement.

7. In the above circumstances, this Civil Revision Petition is **allowed** by setting aside the order passed in I.A.No.1597 of 2014 in O.S.No.152 of 2006 dated 11.03.2015 on the file of the learned Additional District Munsif, Lalkudi. No Costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar (CS)

Mrn

To

1. The Additional District Munsif, Lalkudi.

+1CC TO MR.V.GEORGE RAJA, Advocate Sr. No.64451

+1CC TO MR.R.SUBRAMANIAN, Advocate Sr. No. 64867

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30.04.2019