

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.11.2020

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THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

**CRP (PD)No.1504 of 2014
and
MP.No.1 of 2014**

T. Muthuvaradarajulu Reddiar .. Petitioner/Appellant/1st Defendant

vs

1.M.Pragannayagi
2.M.Sreedevi @ Priya ..Respondents/Respondents/Plaintiffs

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and Decretal order in CMA.No.8 of 2012 dated 19.02.2014 on the file of the Subordinate Judge, Panruti, confirming the order and decretal order dated 31.08.2012 in I.A.No.357 of 2010 in O.S.No.69 of 2010 on the file of the District Munsif, Panruti.

For Petitioner ... Mr.Wilson Topaz
for M/s.A.S.Kailasam

For Respondents ... No appearance

ORDER

This Civil Revision Petition has been filed by the appellant against the dismissal of his appeal in CMA.No.8 of 2012 dated 19.02.2014 on the file of the Sub-Judge, Panruti, confirming the order passed by the District Munsif, Panruti in I.A.No.357 of 2010 in O.S.No.69 of 2010 dated 31.08.2012.

2. The respondents herein had filed a suit in O.S.No.69 of 2010 on the file of the District Munsif, Panruti, against the petitioner herein and one Muthugovinda Reddiar to declare their vested remainder right over the suit property and consequently, restrain the defendants from alienating the suit property. They also filed an application in I.A.No.357 of 2010 seeking interim injunction restraining the respondents/defendants from alienating the suit property till the disposal of the suit. The learned District Munsif, Panruti, by the order dated 31.08.2012 had allowed the said application restraining the respondents therein from alienating the suit property till the disposal of the suit. Feeling aggrieved, the petitioner herein / 1st defendant had filed CMA.No.8 of 2012 on the file of the Sub-Judge, Panruti. The

learned Sub-Judge by the order dated 19.02.2014 had dismissed the said appeal and thereby confirmed the order passed by the learned District Munsif, Panruti in I.A.No.357 of 2010 in O.S.No.69 of 2010 dated 31.08.2012. However, he directed the learned District Munsif, Panruti, to dispose of the suit within three months from the date of receipt of a copy of the order. Feeling aggrieved, the appellant/1st defendant had filed the present Civil Revision Petition.

3. When this matter came up for hearing before this court on 05.10.2020, the learned counsel for the petitioner has submitted that he will instruct the petitioner to file an undertaking affidavit not to dispose of the property till the disposal of the suit. Considering the same, the matter was adjourned to 12.10.2020. On that date, the learned counsel for the petitioner requested to grant some more time for filing an undertaking affidavit. Hence, the matter has been adjourned and posted today. Today also, the learned counsel for the petitioner seeks time by saying that the petitioner is aged about 98 years and he is hospitalised.

4. Considering the fact that the matter has been pending for a long time, the request of the learned counsel for the petitioner has been rejected and directed him to argue the matter. Accordingly, he argued.

5. Since notice to the respondents could not be served through court and also by post, this court has ordered for paper publication. Accordingly, the paper publication has been effected and name of the respondents also printed in the cause-list, but they have not appeared either in person or through counsel. Hence, after hearing the learned counsel for the petitioner and perusing the materials filed along with this petition, Order is being passed in this Civil Revision Petition.

6. The learned counsel for the petitioner has submitted that the respondents 1 and 2 gave an assurance that they will maintain the petitioner and on believing their words, the petitioner had signed in the partition deed dated 01.07.1982 agreeing to retain life interest alone in the suit property, but subsequently, they did not keep up their promise and neglected to maintain the petitioner and hence, the petitioner had filed a petition before

the Revenue Divisional Officer to cancel the said document and considering the same, the learned Revenue Divisional Officer also cancelled the said document but without considering the said facts, both the courts below had passed an order restraining the petitioner from alienating the property and therefore, he prayed to allow this Civil Revision Petition.

7. The alleged partition deed was executed on 01.07.1982, whereas the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 received the assent of the President only on 29.12.2007. Only thereafter, the said Act was notified in the State of Tamil Nadu. As per Section 23 of the said Act, after commencement of the said Act, if any transaction is made by way of gift or otherwise by a senior citizen, on application, the Tribunal can declare the same as void. The said Section will not operate retrospectively. Hence, whether the said Act will apply to this case or not itself questionable.

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8. Taking into consideration the representation made by the respondent that they filed an appeal against the order of the Revenue

Divisional Officer, vide Ex.P6, the trial court has granted interim injunction restraining the petitioner from alienating the suit property. The appellate court also confirmed the said order. However, it has directed the trial court to dispose of the suit within three months. This court does not find any irregularity or illegality in the said order. Hence, this Civil Revision Petition is liable to be dismissed.

9. In the result, this Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. The trial court is directed to dispose of the suit in O.S.No.69 of 2010 dated 31.08.2012 within a period of three months from the date of receipt of a copy of this order uninfluenced by the observations made by this Court in this order. No Costs.

सत्यमेव जयते

02.11.2020

Index: Yes/No
Internet: Yes/No
Speaking/Non-speaking Order
gv

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To

1. The Subordinate Judge, Panruti.

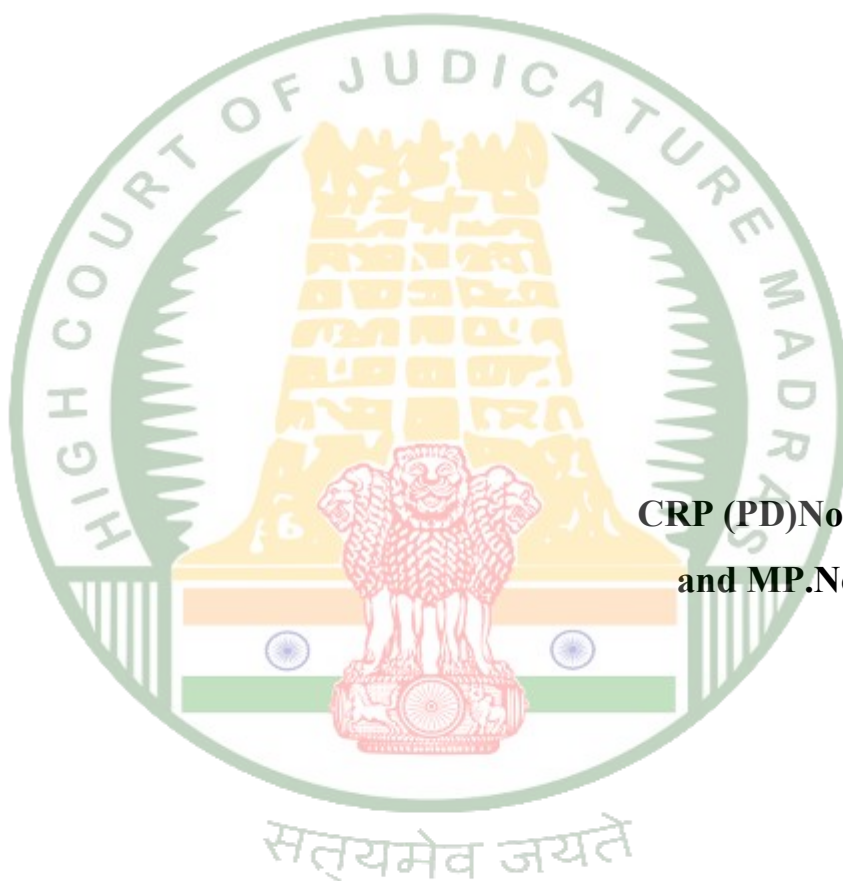
2. The District Munsif, Panruti.



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P. RAJAMANICKAM,J.
gv



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