



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2020

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P. (MD) .No.431 of 2020

and

C.M.p. (MD) .No.2550 of 2020

WEB COPY

1.N.Jagadeesan

2.N.Seethalaksmi

... Petitioners/Defendants

Vs.

N.V.Jagatha

... Respondent/Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal orders passed in I.A.No.5 of 2020 in O.S.No.54 of 2015 dated 29.01.2020 by the Additional District and Sessions Judge, Theni (Camp), Periyakulam.

For Petitioners : Mr.V.Chandrasekar

O R D E R

The respondent, as plaintiff, has filed a suit in O.S.No.54 of 2015 before the Additional District and Sessions Judge, Theni (Camp) Periakulam, for partition and for declaration declaring that the release deed, dated 01.08.2012 is not binding her.

2.The petitioners/defendants have filed a written statement in the year 2015. Issues were also framed and the trial commenced. During the trial, the plaintiff was examined herself as P.W.1 and her side evidence was also closed. Even there was a specific issue in the year 2012 itself that whether the document executed in favour of the first defendant is not binding her. Despite she has raised such a plea in earlier, after lapse of 5 years, commencement of trial in the year 2019 and completion of the cross-examination of the plaintiff, the revision petitioners/defendants wake up and filed a petition to receive additional written statement, which was dismissed by the trial Court on the ground of delay and laches. Challenging the said order passed by the trial Court, the petitioners/defendants have filed the present civil revision petition.

3.The learned counsel for the revision petitioners/defendants submitted that the revision petitioners have filed a petition to receive additional written statement since they have not taken the plea of limitation in the original written statement. The trial Court has failed to consider that a party to the said document ought to have challenged the said document within 3 years. Since the respondent/plaintiff has not challenged the document within the



period of limitation, the suit is barred by limitation. Therefore, the order of the trial Court warrants interference.

4. Heard the learned counsel for the petitioner and also perused the materials available on record.

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5. Admittedly, the respondent/plaintiff has filed a suit for partition and also declaration that the document, dated 01.08.2012 is not binding her. The said suit is filed in the year 2015 and after service of summons, the petitioners filed a written statement in the year 2015 and the case was pending till 2019 for more than 3 years. Issues were framed. One specific issue was also framed that whether the document is not binding the plaintiff. Under these circumstances, the revision petitioners have not challenged either by filing the written statement or additional written statement on the earlier occasion and even till the commencement of trial, the revision petitioners have not filed such a petition to receive the additional written statement. After cross examination, in order to fill-up the lacuna the said petition was filed to receive additional written statement. Under these circumstances, this Court does not find any perversity in the order passed by the trial Court. Therefore, there is no merit in this revision.

6. In view of the above, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

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To

The Additional District and Sessions Judge,
Theni (Camp), Periyakulam.

+1 CC to M/s.V.CHANDRASEKAR, Advocate (SR-11012[F] dated 11/03/2020

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SMA/04/06/2020/2P/3C