



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.09.2020

CORAM

THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

C.R.P. (PD) (MD)No.1467 of 2015

and

M.P. (MD)No.1 of 2015

WEB COPY

Sagunthala : Petitioner/Petitioner/Plaintiff

.. Vs ..

1.R.Venkatesan
2.R.Venkatramani
3.R.Sampath
4.Hemanthakumar
5.R.Vijayan

: Respondents/ Respondents/Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order, dated 11.04.2015 in I.A.No.82 of 2015 in O.S.No.86 of 2010 on the file of the District Munsif Court, Aranthangi.

For Petitioner :Mr.K.Baalasundharam
For R1 :Mr.G.Ganeshkumar
For R2 to R5 :No Appearance

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ORDER

This Civil Revision Petition is directed against the order passed by the learned District Munsif, Aranthangi, in I.A.No.82 of 2015 in O.S.No.86 of 2010, dated 11.04.2015.

2.Brief facts that are necessary for the disposal of this revision petition are as follows:

3.The revision petitioner is the plaintiff in the suit in O.S.No.86 of 2010. The suit is for permanent injunction restraining the defendants and their men from interfering with her peaceful possession and enjoyment of the suit property. The case of the plaintiff is that she purchased the suit property from the original owner, by document, dated 11.01.1956 for valuable consideration and that it was purchased out of the money, which was paid to her as compensation for the death of her husband. The further case of the plaintiff is that that the fourth defendant was given permission to occupy some portion of the suit property by putting up temporary residential structure and that he has made an attempt to grab the property by mutation in revenue records, taking advantage of his possession and enjoyment of the small piece of the land in the entire suit property.



4.It is to be noted that the defendants filed written statement stating that the suit property was sold by the plaintiff in favour of their mother, by document, dated 25.02.1957 and that the plaintiff is not in possession and enjoyment of the suit property. After the closure of evidence and the matter was posted for arguments, the plaintiff/revision petitioner filed an application in I.A.No.82 of 2015 to re-open the suit for the purpose of sending the document alleged to have been executed by the revision petitioner on 25.02.1957 in favour of his mother to finger Print Expert.

5.Though the application is belated and there is no explanation for the long delay, the lower Court dismissed the said application mainly on the ground that the plaintiff has not prayed for any declaratory relief as against the sale deed, under Ex-B1, dated 25.02.1957 and that therefore, the petition to send the document for getting expert's opinion, after the long number of years, cannot be considered. The trial Court has also pointed out that the petitioner has not filed any reply statement, disputing the document, dated 25.02.1957, alleged to have been executed by the revision petitioner in favour of defendants' mother. The trial Court further observed that the document under Ex-B1 was acted upon and that the revenue records have been changed in favour of defendants in tune with document Ex-B1. Aggrieved by the same, the present revision petition is filed by the plaintiff.

6.When there is no pleading in the plaint or reply statement disputing the genuineness of the document, Ex-B1, the trial Court is right in holding that the interlocutory application is highly belated and that the application, at the fag end of trial, is to protract the proceedings. It is to be seen that the revision petitioner has executed the document Ex-B1, after the property was purchased by the revision petitioner in 1956. Having regard to the facts that the revision petitioner has not even filed any reply statement disputing the document Ex-B1, and that the application is filed after the trial, this Court finds no error or irregularity in the order of lower Court.

7.In fine, this revision petition is dismissed. The order passed by the learned District Munsif, Aranthangi, in I.A.No.82 of 2015 in O.S.No.86 of 2010, dated 11.04.2015, is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2020

Sub Assistant Registrar(CS)



1.The District Munsif, Aranthangi.

2.The Section Officer, (2 copies)
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

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