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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 29.07.2021
CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.R.P. (PD) .Nos.1064 & 1202 of 2021
and
C.M.P.No.8449 of 2021

[Through Video Conferencing]

R.P.Sarathy (Died)
1.B.Jarashree
2.B.Latha
3.Pranuthi

... Petitioners / Defendants
in both CRPs.

vs.

1. M/s. Sri Narasu's Coffee Company Limited,
Rep by its Director S.Lalitha,
W/o.P.Sivanantham

... 1st Respondent / 1st Plaintiff

2. P.Sivanantham,
Managing Director
M/s. Sri Narasu's Coffee Company Limited

... 2nd Respondent / 2nd Plaintiff
in both CRPs.

3. The Joint Sub-Registrar No.1,
Salem.

...3rd Respondent / 4th Defendant
in both CRPs.

COMMON PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the Fair and Decretal Order dated 13.10.2020 made in I.A.Nos.1 & 4 of 2019 in O.S.No.1019 of 2009 on the file of the III Additional District Munsif Court, Salem.

For Petitioners
in both CRPs : Mr.T.S.Rajagopalan,
Senior Counsel
for Ms.D.Chitra Maragaatham



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For R1 & R2
in both CRPs : Mr.S.Prabakaran,
Senior Counsel
For Mr.I.Arockiaraj

For R3 : Dr.S.Suriya,
Government Advocate

COMMON ORDER

The 1st, 3rd & 5th defendants in O.S.No.1019 of 2009 now pending on the file of the III Additional District Munsif Court at Salem are the revision petitioners in CRP.No.1202 of 2021, which revision had been filed questioning the order dated 13.10.2020 in I.A.No.1 of 2019, which Interlocutory Application had been filed by the plaintiffs in the suit under Order VI Rule 17 CPC. The said application had been allowed, necessitating the revision petitioners herein to file the revision petition.

2.The 1st, 3rd & 5th defendants in the same O.S.No.1019 of 2009 are again the revision petitioners in CRP.No.1064 of 2021, filed questioning the dismissal of I.A.No.4 of 2019 filed by them, under Order VII Rule 11 CPC. The said application was dismissed by order dated 13.10.2020.

3.Since both the revision petitions emanate from Interlocutory Applications filed in the same suit, and since arguments were advanced by the learned Senior Counsels on behalf of the revision petitioners and also on behalf of the respondents, a common order is passed in both the revision petitions. However, independent discussions are undertaken with respect to the two revision petitions.

4.A few background details are required.

5.O.S.No.1019 of 2009 had been filed by Sri Narasu's Coffee Company Limited represented by its Director S.Lalitha against B.Latha, R.P.Sarathy, B.Jayasree and also against the State of Tamil Nadu represented by the Joint Sub Registrar No.1, Salem, seeking a Judgment and Decree in the nature of declaration, declaring a Sale Deed dated 23.08.2006 registered in favour of the 1st defendant and registered as Document No.2626/2006 and another Sale Deed dated 23.08.2006 registered in favour of the 2nd defendant and registered as Document No.2316/2006 and a third Sale Deed dated 25.08.2006 registered in favour of the 3rd defendant and registered as Document No.3015/2006 on the file of



the 4th defendant viz., the Joint Sub Registrar No.1 at Salem, as null and void and consequently, restraining the said defendants from alienating the said properties mentioned in the Sale Deeds to any third person and also for costs of the suit.

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6.The 1st plaintiff is a Company registered and incorporated under the Indian Companies Act, 1956. It was originally a partnership Firm and subsequently, it had been incorporated as a Limited Company from 01.04.2009. They are engaged in the manufacture and sale of coffee powder and related products. The company was originally formed by one Lakshmi Narasu in the year 1926. Thereafter, it was sold by a Court auction in the year 1966. It had been purchased through Court auction and the plaintiff Firm consisted only of the family members of P.Sivanantham. The Firm went through various litigations and changes and finally came to be incorporated as a limited company in the year 2009. The plaintiff and the defendants are also relatives. Various circumstances raised to the filing of acrimonious suits and litigations among them. Both parties had several occasions to express their grievances by approaching the court of law. Finally, in order to purchase peace, a memorandum of understanding had been entered in to among both the parties and though the said memorandum of understanding had not been presented as a document along with the plaint, it had been referred to by both the learned Senior Counsels during the course of arguments. This memorandum of understanding was dated 10.08.2006 and it had been entered in to by R.P.Sarathy and his sons and daughters and also a Trust, by name Sri Mahalakshmi Ammal Charities.

7.It was contended by the plaintiff/Director of the company in O.S.No.1019 of 2009 that the defendants forced P.Sivanantham to subscribe his signature in the memorandum of understanding. Among many other clauses which were reduced in writing in the memorandum of understanding, one of them was that P.Sivanantham had to pay a sum of Rs.26.5 Crores to the defendants and the defendants should on receipt of such amount retire from the partnership Firm. While retiring from the Firm, the partners can take away only the capital which they had invested. It was stated by the plaintiff that the property of the Firm would continue to vest with the Firm. However, it is claimed that the defendants with the help of third parties, prejudiced P.Sivanantham to subscribe his signature to 3 Sale Deeds which were questioned in the suit and a declaration was sought to declare them as null and void.

8.It had been stated that the Sale Deeds had been executed by Narasu's Coffee Company represented by its partners in favour of the defendants. It was claimed by the plaintiff that physical possession had not been handed over. It was also stated that



among the covenants in the Sale Deeds it had been stated that the deeds have been executed towards the share of the defendants in the Firm, but the Firm did not receive any consideration. It must be kept in mind, in the year 2006 the limited company had not been formed and the 1st plaintiff was a partnership Firm. It was also stated in the plaint that P.Sivanantham, as stated earlier, had paid a sum of Rs.26.5 Crores to the defendants. It was complained in the plaint that quite apart from receiving that amount of Rs.26.5 Crores, the Sale Deeds had also been executed which actually according to the plaintiffs, were gratuitous acts and the defendants had taken advantage of the threats held out to Mr.A.Sivanantham, who was thrown out by the majority of the partners.

9.It was stated that two criminal cases were also foisted in Crime Nos.1435 and 1436 of 2006 in the Hastampatti Police Station, owing to such acts of threat and coercion. It was claimed that P.Sivanantham had executed the Sale Deeds and had also paid a sum of Rs.26.5 Crores.

9.Further, the defendants had filed O.S.No.106 of 2009 against the Firm and also against P.Sivanantham, giving a go by to the terms of memorandum of understanding and claiming partition and separate possession of the properties which were then available for such partition. It was under these circumstances claiming coercion in the execution of Sale Deeds, that the suit in O.S.No.1019 of 2009 had been filed and instituted by the company represented by its Director S.Lalitha primarily seeking for a declaration that the 3 Sale Deeds mentioned in the plaint were null and void and for consequential injunction restraining the defendants from acting on the Sale Deeds and creating encumbrances over the properties mentioned in the Sale Deeds.

10.The suit had been progressing in its own slow way before the III Additional District Court at Salem. There has been no effective forward movement. I am informed that the trial had not yet commenced.

11.A written statement had been filed by the 2nd defendant which had been adopted by the 3rd defendant. To understand the facts it would be advantageous to narrate the averments made in the said written statement. The defendants denied the allegations stated out in the plaint. They claimed that as per the certificate of incorporation, a new Private Limited Company had been incorporated and there was no conversion of the partnership Firm into a limited company. That may not be a very relevant fact to decide the issues now raised in the revision petition. It was also contended that the signatory to the plaint namely S.Lalitha had not been specifically authorized to



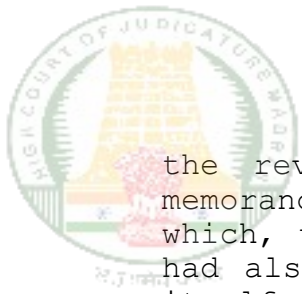
institute the suit. They however denied the allegations that they did acts detrimental to the Firm or to the employees. They claimed that they were also responsible for the development and growth of Narasu's Coffee Company from the year 1996 and at that point of time, P.Sivanantham who was aged about 62 years neither contributed either physically or in any other manner towards the development of the said company or the partnership Firm. They also denied the other allegations with respect to the capital which was remaining in the said Firm. It was also denied that while retiring from the Firm a partner can take away only the capital and that the property would continue to vest with the Firm.

12.It was also denied that they influenced and pressurized P.Sivanantham to subscribe his signatures to the Sale Deeds which had been questioned in the plaint. On the other hand, they stated that they were forced to go out of the Firm. It was stated that the properties covered under the Sale Deeds were given to them only towards their share of profits and it was contented that the Firm or rather the company was earning substantial profits. They also claimed that they owned more than 70% share in the Firm. They however, claimed that consequent to the Sale Deeds, possession of the properties had actually been given over to them. With respect to the criminal cases they stated that the complaints were true. It was also stated that the allegations that P.Sivanantham was put under threat or coercion were false. They also raised an issue that though P.Sivanantham was the Chairman of the company he had not signed in the plaint as a Chairman. However, it was claimed that he had instigated his wife to institute the suit.

13.It must be mentioned at this stage that the defendants had filed O.S.No.106 of 2009 seeking partition of the properties of the Firm. That suit also progressed in its slow way. In that particular suit Interlocutory Application came to be filed by the defendants / effectively the plaintiffs in O.S.No.1019 of 2006, under Order VII Rule 11 CPC, claiming that the plaintiffs had given a go by to the memorandum of understanding and had instituted the suit for partition thereby upsetting the compromise reached among the parties. It was stated that the said suit in O.S.No.106 of 2009 was an abuse of process and it was therefore urged that the said suit should be rejected.

14.The order in said application travelled up to the Supreme Court and it must be pointed out that consistently, it had been urged that the suit was actually an abuse of process. The suit was struck off and does not survive any more.

15.That application under Order VII Rule 11 CPC was filed by P.Sivanantham and it is now being pointed out on behalf of



the revision petitioners herein that having stated that the memorandum of understanding was a prime document, based on which, the parties had decided to enter in to the compromise and had also put the said compromise into effect, the present suit itself should also and cannot also stand any further since it was also filed in violation of terms of memorandum of understanding.

16.Let me enter into a discussion on those facts in detail. In the written statement filed, quite apart from expressing their grievances over the fate in O.S.No.106 of 2009, the defendants stated that there was no cause of action for institution of O.S.No.1019 of 2009 and that the suit should be dismissed. Normally, the suit should have progressed further by framing of issues and inviting the parties to gaze the witness box.

17.However, that was not to be so.

18.In the meanwhile, P.Sivanantham had filed an application to implead himself as an additional plaintiff in the suit. In the affidavit filed in support of the said application, he stated that the signatory to the plaint, his wife Mrs.Lalitha was not aware of the entire facts and that it was not correct to state that he was coerced and influenced to sign the memorandum of understanding or any other document. As a matter of fact, he started to tread a different path and stated that he alone knew the facts and that if he is not been impleaded as a party plaintiff, it may not be possible to succeed in the suit and that the plaint also requires amendment to be made in order that an effective relief is sought and granted by the Court. It was stated that therefore amendment of the plaint in that regard is required.

19.It was in this connection that I.A.No.1 of 2019 came to be filed, seeking amendment of the plaint. The order allowing the said application and permitting amendment of the plaint is the subject matter of C.R.P.No.1202 of 2021.

20.In the affidavit filed in support of I.A.No.1 of 2019, it had been stated by P.Sivanantham, who by then had been impleaded as the 2nd plaintiff in the suit, that he had examined the case records and realized that unnecessary facts had been pleaded in the plaint and therefore amendments are required for proper disposal of the suit. He had stated that there was no occasion for him to go through the plaint in an effective manner earlier, and he had not done so and only when he did so, did he realize that unless the plaint is amended, he could not succeed in the suit. It was claimed that the proposed amendments would in no way change the cause of action for the suit and that it



would also not cause any prejudice to the defendants. It was contended that the amendments would actually be helpful to the Court for proper disposal of the issues raised in the plaint.

21.The nature of amendments sought was not stated in the affidavit. They were stated in the petition which had been filed. A perusal of the petition shows that actually in every paragraph, significant amendments were sought to be made. In paragraph 5 of the plaint, deletion of the words that the defendants forced him to subscribe his signature in the memorandum of understanding was sought. In paragraph No.6 reference to the two named individuals Rajendraprasad and Prabakaran and the brother of the 2nd defendant K.V.Ramanujam were sought to be deleted. In paragraph No.6 the averments that the properties in the Sale Deeds were obtained by coercion in favour of the defendants were again sought to be deleted. In paragraph No.6, a new amendment was also sought to add the statement that P.Sivanantham had registered the 3 Sale Deeds in pursuance and to honour the memorandum of understanding.

22.It was also stated that the recitals in the Sale Deeds with regard to the shares of the 1st - 3 defendants in Narasu's Coffee Company Limited was an incorrect statement. It was also stated that there was an absence of sale consideration and that therefore, the said Sale Deeds are null and void.

23.In paragraph No.8 the sentence that the plaintiff company was in exclusive possession of the property, was sought to be deleted. The word 'duress' was sought to be deleted in paragraph No.10. There were consequential amendments to the valuation of the suit and also to the Court fees paid.

24.As stated, these facts were given in the petition and not in the affidavit filed in support of the said petition.

25.A counter was filed to this application. The requirements for amendments were denied and questioned. It was stated that only such amendments which are necessary to determine the real controversy between the parties can be permitted. The averment in the affidavit that there was no necessity for the affiant to go through the Court records on an earlier date was denied and disputed. The further fact that unless the plaint was amended, the plaintiff could not succeed in the suit was also challenged. The further statement is that the amendment would not change the cause of action in the suit or the nature of the suit was also questioned. It had been stated that the application had been filed only to postpone and to protract the trial.

26.This application came up for consideration on 13.10.2020



and by an order of even date, the application was allowed. In the order, the learned III Additional District Judge at Salem had opined, that there was no significant change in the cause of action or in the relief sought. The primary relief was that the Sale Deeds should be declared as null and void and that as a consequence possession must be handed over to the plaintiffs.

27.The learned III Additional District Judge also observed that the amendments can be sought at any time of the proceedings and observed that the amendments had been sought prior to the commencement of trial and therefore, would not affect the case of the defendants who can file their additional written statement questioning such amendment.

28.The learned III Additional District Judge referred to 2009 (10) SCC 84 Revajeetu Builders and Developers vs. Narayanaswamy and sons and others in which stipulations to consider an application in Order VI Rule 17 CPC had been laid. It had been held that, it was a discretionary power of Court either to grant or to deny or to refuse the amendment. It was however held that such discretionary power must be exercised judiciously and with great care.

29.The basic test as stated in the said Judgment was that it should be examined whether the amendment was required for determination of the real question in controversy and for proper and effective adjudication of the case. The Court should also consider the prejudice which was likely be caused to the other side if the amendment is allowed. The learned III Additional District Judge after quoting that particular Judgment, examined the nature of amendment sought. Finally, he stated that since a preliminary issue had been framed whether the suit was barred by limitation, to determine the issues, the amendment was required. In effect, the learned III Additional District Judge, exercised his discretionary power to permit the amendment to be carried out in the plaint.

30.Mr.T.R.Rajagopalan, learned Senior Counsel for the revision petitioners seriously questioned such permission being granted.

31.Mr.S.Prabakaran, learned Senior Counsel appearing on behalf of the respondents however justified the permission granted and very specifically pointed out that by way of the amendment, the cause of action had not shifted and the nature of relief had not changed. It was his contentions that amendments to the body of the plaint can always be addressed by filing an additional written statement and that it was only appropriate that in the Court of first instance, some latitude is granted to the parties to expand their pleadings.



32.Mr.S.Prabakaran, learned Senior Counsel therefore justified grant of permission to carry out amendments. He also stated that by carrying out the amendments, the plaintiffs would not gain any advantage unless the amendments are spoken to by the witnesses during trial and which statements can always be subjected to cross examination by the defendants and the learned Senior Counsel therefore stated that by carrying out the said amendments, the defendants would not be prejudiced in any manner. The amendments carried out can always be tested during the course of trial and thereafter, the learned III Additional District Judge can base his findings on the reliefs sought on the basis of the evidence recorded and come to a just conclusion.

33.However, Mr.T.R.Rajagopalan, learned Senior Counsel contended that by way of the amendments, the entire pleadings had been changed. While, the plaint as it originally stood, contended that the Sale Deeds should be set aside on the ground that P.Sivanantham was coerced to sign the Sale Deeds, by way of the amendments, such a stand had been given up and on the other hand, it had been contended that the Sale Deeds had been executed pursuant to the memorandum of understanding. The learned Senior Counsel also pointed out that it had always been the contention of the defendants that the Sale Deeds had been executed only pursuant to the memorandum of understanding. The consideration for the Sale Deeds was the retirement of the defendants from the partnership Firm and thereafter, examined a shift or adjustment in the capital amounts. The learned Senior Counsel therefore stated that the basis on which, the plaint originally was instituted had been shaken by way of the amendments. Originally it had been contended that the execution of the Sale Deeds itself was owing to influence and coercion, but by way of the amendments that contention had been taken away and rather it had been contented that there was consideration had not passed towards execution of the Sale Deeds.

34.The learned Senior Counsel also pointed out the affidavit filed in support of the application wherein details had not been given as to why such amendments were required. The learned Senior Counsel stated that the only reason given was that the plaint, if permitted to stand as it originally stood would not succeed. The learned Senior Counsel therefore pointed out that by way of the amendments, the plaintiffs were building up a case which was quite contrary to what was verified as true facts in the plaint as originally filed.

35.Mr.T.R.Rajagopalan, learned Senior Counsel referred to 2000 (1) SCC 712 in B.K.Narayana Pillar vs. Parameswaran Pillai and another for the proposition that an amendment cannot be



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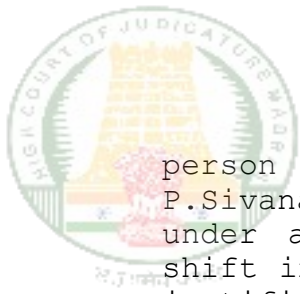
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3. The discretionary power of Court is to also be exercised on examination of the 'due diligence' test namely whether the plaintiff had been diligent to plea the relevant facts in the first instance and whether omissions are sought to be corrected by way of amendments.

42. While examining the application filed under Order VI Rule 17 CPC in the instant case, it is clear that the plaint was originally filed on the basis that P.Sivanantham had been influenced and coerced to sign the Sale Deeds and infact, also, much earlier to the Sale Deeds even the memorandum of understanding. Thus, the basis on which, the Sale Deeds were sought to be declared as null and void were coercion and undue influence. It was stated that the Sale Deeds were void owing to continuous threat, duress and mental pressure. A reference was also made to the complaints given to the police against Mr.P.Sivanantham which was also stated to be a significant factor which made him to execute the Sale Deeds. Further, the institution of O.S.No.106 of 2009 by the defendants was also stated to be a factor which lead to harassment of the plaintiffs. By way of amendment, all these pleadings had been given a go by.

43. It must be kept in mind that P.Sivanantham, while filing an application to implead himself as a plaintiff, in the year 2010 had filed an affidavit wherein, he had stated that he was a continuing partner in the Firm from the year 1983 and would be able to throw more light on the relevant facts. He had stated that S.Lalitha, the Director who signed and verified the plaint has no knowledge of various allegations made in the plaint since she became a partner only in the year 2006. He also stated that she was not in the know of the case, not in the know of the various litigations and that he alone was conducting the litigations on behalf of the company. He claimed to have exclusive knowledge of the functioning of the company and knowledge on the controversies and disputes among the parties. By way of amendment a conscious statement had been made by P.Sivanantham that the allegations in the suit that he had been forced and influenced to execute the Sale Deeds were not correct. The basis of the suit will then have to be examined keeping in mind the Judgment/dictum of the Hon'ble Supreme Court. One of them was that it should not cause prejudice to the defendants. The Hon'ble Supreme Court also stated that the Court should not take a hyper technical ground when an application for amendment is sought to be introduced.

44. Here is a case, where in the plaint, the plaintiff had stated that 3 Sale Deeds should be set aside on the ground that they were not executed voluntarily. It was stated that they were executed under duress, under influence and under coercion. The



person who was subjected to such coercion and influence P.Sivanantham has now come forward to state that he was not under any such coercion and influence. This is a significant shift in the pleadings. This shift in the pleadings can never be justified by stating that a written statement can be filed. The plaintiff will have to stand or fall on the pleadings as originally stated. By way of an amendment there could be an introduction of a fact which had occurred subsequent to the filing of the suit. There could be an introduction of a fact which was existing prior to the institution of the suit but which came to the knowledge of the plaintiff subsequent or during the course of the pendency of the suit. But taking a complete turn around to the facts mentioned is not permissible. Viewed from that angle, I would interfere with the order granting permission for amendment. The entire exercise is a fraud played on the sanctity of Court proceedings. I would therefore allow C.R.P.No.1202 of 2021 and dismiss I.A.No.1 of 2019.

45.Now, let me take up for consideration, C.R.P.No.1064 of 2021.

46.This revision petition had been filed questioning an order in an application filed under Order VII Rule 11 CPC by the defendants in the very same suit. The guideline for Order VII Rule 11 CPC had been given in (2020) 7 SCC 366, Dahiben vs. Arvinbhai Kalyanji Bhnusali (Gajra) Dead Through Legal Representatives and Others. The Hon'ble Supreme Court had very clearly stated that while considering an application Order VII Rule 11 CPC the averments in the plaint should be examined. This had been expanded to state that along with the plaint the documents filed along with the plaint can also be examined.

47.When the plaint in O.S.No.1019 of 2009 is examined, the documents filed along with the same are a copy of incorporation of the company, the copies of the 3 Sale Deeds, sought to be set aside, the copies of letters sent to R.P.Sarathy, copy of letter sent to the Assistant Commissioner of Land Reforms, copy of letter received from the District Registrar and correspondences with the said official, a copy of the public notice in Malai Murasu and a notice issued by the plaintiff in the Dhina Thandhi. The plaintiffs had not produced the memorandum of understanding. It is contented by Mr.T.R.Rajagopalan, that the memorandum of understanding was produced during the course of arguments in the Interlocutory Application.

46.A reading of the plaint and the doubts filed along with the plaint will have to be undertaken to examine whether the plaint would survive or not. The averments either in the written statement or in the application filed seeking to reject the



plaint should not be examined at this particular stage.

47. While examining the order passed, it is seen that during the course of arguments, the revision petitioners herein had produced 3 documents namely the order in I.A.No.865 of 2009 in O.S.No.103 of 2008, the Order in C.R.P.No.1724 of 2011 and the Order in S.L.P.No.24591 of 2011. The respondents in that application / plaintiffs in the suit had produced a copy of the order in C.R.P.No.2379 of 2012, the copy of the Order of S.L.P.No.118 of 2015, a copy of the memorandum of understanding and the statement accounts of Narasu's Coffee Company.

48. It had been therefore urged by Mr.T.R.Rajagopalan, learned Senior Counsel that the terms of the memorandum of understanding must be examined. It is his contention that omission to plead about the memorandum of understanding led to the dismissal of O.S.No.106 of 2009, the suit instituted by the revision petitioners herein. It is contended by Mr.T.R.Rajagopalan, that the plaintiffs in O.S.No.1019 of 2009 have themselves given a go by to the memorandum of understanding and therefore, the learned Senior Counsel stated that the plaint should also be struck off.

49. However, the averments in the plaint indicate that 3 Sale Deeds should be set aside on the ground of coercion, duress and such other factors. They are grounds to make an agreement voidable and not void. Amendment to the plaint had been rejected by this Court by allowing C.R.P.No.1202 of 2021, in the earlier part of this order. It would therefore be appropriate that the plaintiffs namely Sri Narasu's Coffee Company Private Limited represented by its Director S.Lalitha and the impleaded plaintiff P.Sivanantham are directed to graze the witness box and speak about the averments made in the plaint. They should be prepared to subject themselves for cross examination on the facts stated therein. Short-circuiting the plaintiffs, particularly when allegations of duress and influence and coercion are expressed cannot be entertained. They are aspects which have to be examined during the course of trial. It is for good reason that P.Sivanantham wanted to delete those reasons by way of amendment.

50. The parties have been, even according to both the learned Senior Counsels instituting litigations after litigations in the Courts of law, then entering into compromises and thereafter, giving a go by to the compromises and re-litigating with gay abandon. They have been using the Court as a playground. This attitude directly affecting the sanctity of judicial proceedings cannot be permitted to continue. At some point, one of them should graze the witness



box and should speak out the statements made on oath and should be cross examined.

51. In this suit, such an opportunity is now granted to them. They have always been filing suits and litigating over Interlocutory Applications. But none of the suits have gone through its entire process of trial. Let the suit as was originally filed remain on the records. Let the plaintiff therein and the newly impleaded plaintiff speak up on the basis of averments so stated and let those averments be subjected to cross examination.

52. A grievance is expressed by Mr. T. R. Rajagopalan, learned Senior Counsel that while the revision petitioners were nonsuited when they instituted O.S.No.106 of 2009 on the basis of that they sought partition while there was a subsisting memorandum of understanding governing division of properties, while the plaintiffs in O.S.No.1019 of 2009 have also given a go by to the memorandum of understanding. Let this aspect be tested during cross examination. Let the plaintiffs come forward and state on oath why the Sale Deeds should be set aside.

53. I am not prepared to strike off the plaint. Let the plaint remain as it was originally instituted. The plaint has proceeded on the basis that the Sale Deeds should be set aside owing to acts of threat and coercion and influence. Those allegation are required to be tested during for trial. The plaintiff will have to prove them. These statements will have to withstand cross examination.

54. Therefore, C.R.P.No.1064 of 2021 is dismissed and the order dismissing I.A.No.4 of 2019 is upheld.

55. A direction is given to the learned III Additional District Judge at Salem to frame issues if not already framed and invite the parties to trial. The learned III Additional District Judge should realise that the suit is pending for the past 12 years. Let trial commences in O.S.No.1019 of 2020. The following procedure is to be adopted during the course of trial. Whenever the plaintiffs graze the witness box and trial actually commences, the trial should be conducted on a day to day basis. I am conscious that the same may not be practically possible. Even if it is not practically possible, a maximum of three working days alone can be granted in between any two adjournments. The learned III Additional District Judge should also ensure that during the course of trial not more than two adjournments are permitted for the very same reason. If this method is adopted, the trial would come to a conclusion within a short period of time and the learned III Additional District Judge would also have control over the process.



56.I would direct the parties to the suit to prepare themselves to adduce evidence and also request the learned counsels who appear before the learned III Additional District Judge at Salem to also prepare to put their witness in the box and instruct the witnesses to appear in Court and to tender evidence. At any rate, an outer time limit of 31.12.2021 is fixed for completion of trial in O.S.No.1019 of 2009.

57.In the result,

(i) C.R.P.No.1202 of 2021 is allowed and the order dated 13.10.2010 in I.A.No.1 of 2019 is set aside and I.A.No.1 of 2019 is dismissed.

(ii) C.R.P.No.1064 of 2021 is dismissed and the order dated 13.10.2010 dismissing I.A.No.4 of 2019 is upheld.

(iii) The connected miscellaneous petitions are closed.

(iv) No order as to costs.

(v) I would relegate both the parties to go back to the trial Court and invite them to graze the witness box. The trial is to be conducted in the manner aforesaid and even if extraneous circumstances interfere, must be concluded by 31.12.2021.

Sd/-

Assistant Registrar (CS-III)

// True Copy//

Sub Assistant Registrar

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To:

1.The III Additional District Munsif Court, Salem.

+2ccs to Mr.T.R.Rajaraman, Advocate, S.R.No.36787 & 36788

+4ccs to Mr.M.Srinivasan, Advocate, S.R.No.36733 & 36744

C.R.P.(PD).Nos.1064 & 1202 of 2021
and C.M.P.No.8449 of 2021

CP (CO)
SU (31/08/2021)