

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No. 2541 of 2015

and

MP.No.1 of 2015

Chellammal

... Petitioner

Vs.

Sivakumar

... Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 18.02.2015 in I.A.No.24 of 2015 in O.S.No.494 of 2008 on the file of the II Additional District Munsif Court, Vridhachalam.

For Petitioner : Mr.R.Meenal

For Respondent : Mr.J.Antony Jesus

ORDER

This Civil Revision Petition is arising out of the fair and decretal order passed in I.A.No.24 of 2015 in O.S.No.494 of 2008 dated 18.02.2015 on the file of the II Additional District Munsif Court, Vridhachalam, thereby, dismissing the petition for amendment of plaint.

2. The petitioner filed the said suit for declaration and injunction, in respect of the suit property, in which the respondent is the defendant. According to the petitioner, the suit property which was originally owned by her husband and by the settlement deed dated 23.04.2007, it was settled in her favour. While being so, it is stated that the respondent also claimed the said property and interfering with the peaceful possession and enjoyment of the same. While pending the suit, the petitioner's husband was examined as P.W.1. During the cross examination of P.W.1, he categorically said that the settlement deed was executed by him on 23.04.2007. Thereafter, he came to understand that the settlement deed was taken by his son /Vanarajan and to escape from the Police Panchayat he corrected the date as 23.04.2007 from 10.04.2007.

3. After obtaining, the certificate copy of the settlement deed, he came to know that the settlement deed was executed on 10.04.2007. Therefore, the petitioner filed a petition for amendment to correct the settlement deed date as 10.04.2007. Whereas, the respondent took a stand that, he claimed the very same property by the registered sale deed dated 18.07.2007 executed by the petitioner's son/Vanarajan. The respondent also

stated that the settlement deed is a fabricated one only to grab the property, it was fabricated by the petitioner and her husband and filed the suit with false and frivolous averments.

4. According to the respondent, he claims the property by the sale deed dated 18.07.2007. Whereas, the petitioner filed a suit, on the strength of the settlement deed dated 23.04.2007. Whether, it is 23.04.2007 or 10.04.2007 both the dates are prior to the sale deed dated 18.07.2007. Therefore, it would not cause any prejudice to the respondent by correcting the date settlement deed dated 10.04.2007 instead of 23.04.2007.

5. In view of the above discussion, this Civil Revision Petition is allowed and the order passed in I.A.No.24 of 2015 in O.S.No.494 of 2008 dated 18.02.2015 is set aside. Consequently, the connected Miscellaneous Petition is closed. No costs.

02.02.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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G.K.ILANTHIRAIYAN,J.

Kv

To

The II Additional District Munsif Court, Vridhachalam.



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