



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2021

CORAM:

THE HONOURABLE Mr.JUSTICE G.CHANDRASEKHARAN

C.R.P. No.1506 of 2021
and C.M.P. No.11822 of 2021
(Through Video Conference)

Mahalakshmi

.. Petitioner

Versus

1) Maheswari

2) Krishnaveni

3) Kutti @ Suresh Kumari

4) Saradhamani

5) Veeramani

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the orders of the learned Subordinate Judge of Uthangarai dated 08.03.2021 in I.A.No.01 of 2020 in A.S.No.42 of 2014.

For Petitioner : Mr.J.Hariharan

O R D E R

This Civil Revision Petition is filed to set aside the order passed by the learned Subordinate Judge, Uthangarai in I.A.No.1 of 2020 in A.S.No.42 of 2014. This I.A. No.1 of 2020 was filed under Order VI Rule 17 and Section 151 of the Civil Procedure Code, seeking amendment of the plaint, as detailed in the Amendment Petition.

2. The amendments are included in the prayer, with regard to declaring of title of the plaintiff in the suit property and the valuation of the suit. It is seen from the submissions made by the learned counsel for the petitioner that the petitioner's father executed a Registered Will, dated 04.10.1989 bequeathing certain properties, especially suit properties, in favour of the petitioner. When the defendants, who are the children of the



first wife of the deceased father, tried to intervene with her possession and enjoyment of the property, she filed a suit for permanent injunction. That suit came to be dismissed among other grounds for the reason that inspite of the specific denial of the title of the petitioner, the petitioner has not chosen to file the suit for declaration of the title, instead had filed a suit only for permanent injunction.

3. It is further submitted by the learned counsel for the petitioner, that against the said judgment, she preferred an appeal in A.S.No.42 of 2014 and it is pending before the learned Subordinate Judge of Uthangarai. In the said appeal, she filed I.A.No.1 of 2020 seeking for the aforesaid amendment. The learned Judge had dismissed the amendment petition and against the said order of dismissal of the amendment petition, this Civil Revision Petition has been filed.

4. Perusal of the order of the learned Subordinate Judge, Uthangarai shows that the learned Subordinate Judge has held that the amendment petition was not filed in time. It is also stated that the fourth respondent had filed a suit in O.S.No.79 of 2005 against the petitioner herein and also the respondents 1 to 3 & 5. The suit properties in both the suits are same. In the plaint, filed in O.S.No.34 of 2007, the petitioner has specifically stated about the suit in O.S.No.79 of 2005. Therefore, it is seen that the petitioner is aware of the denial of her title in the suit properties even in the year 2005. However, she has not chosen to file a comprehensive suit for declaration of title and for other relieves.

5. It is further said in the order that, the suit was dismissed in the year 2012 and the Appeal was numbered in 2014. The Appeal was posted for arguments on several occasions but the petitioner has not chosen to argue the case and therefore, the Appeal was 'dismissed for default' on 12.08.2016. An application was filed by the petitioner to restore the Appeal and the Appeal was restored on 27.02.2019. Even after restoration, the petitioner was not prepared to argue the matter and has filed this petition for amendment.

6. It is clearly made known to this Court that the title to the suit properties claimed by the petitioner was denied by the contesting defendants even in the year 2005. Petitioner has filed O.S.No.34 of 2017 but she has not chosen to file the suit for declaration of title and for consequential relief of permanent injunction. Even after the dismissal of the Appeal suit in 2012, this amendment petition is filed only in the year 2020. It clearly shows that this amendment petition is filed only to drag on the proceedings. Therefore, this Court finds concurrence with the reasons given by the learned Subordinate



Judge, Uthangarai for dismissing the amendment petition. It is a well-considered order and this Court finds no reason to interfere with the order of the learned Subordinate Judge, Uthangarai and in this view of the matter, this Civil Revision Petition is Dismissed. No costs. Consequently, connected C.M.P. No.11822 of 2021 is closed. After pronouncement of the order, the learned counsel for the petitioner submitted that the Appeal is pending for nine years and, thus prays for a direction to dispose the Appeal at the earliest. The learned Appellate Judge is directed to dispose of the Appeal as early as possible, preferably within a period of three (03) months from the date of receipt of a copy of this order.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

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To:

The Subordinate Judge,
Uthangarai

+1cc to M/S V.Nicholas, Advocate, SR.No.38877

C.R.P. (NPD) No.1506 of 2021

BP (CO)
PM(02/09/2021)