

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2021

C O R A M

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P No.2329 of 2020

Govindaraj

.. Petitioner

Vs.

1. Rangasamy,

2. Kousalya,

3. Kabila,

4. Deepan Chakkaravathy,

5. Saravanan

... Respondents

Prayer: This Civil Revision Petition filed under Article 227 of the Constitution of India praying to pass appropriate directions directing the Principal Sub-Ordinate Court at Ponneri to dispose of the Appeal Suit in A.S. No.43 of 2018 expeditiously.

For Petitioner ... Mr.K.J. Parthasarathy
For Respondents ... No appearance

O R D E R

The Civil Revision Petition has been filed praying to direct Principal Sub-Ordinate Court at Ponneri to dispose of the Appeal Suit in A.S. No.43 of 2018 expeditiously.

2. The petitioner herein who is the plaintiff in the suit, has filed Original Suit in O.S. No.115 of 2009 on the file of the District Munsif, Ponneri for permanent Injunction restraining the respondents 1 to 5 herein who are the defendants 1 to 5 in the suit and allocation the 1/3rd share of the suit schedule property to the petitioner/plaintiff and to declare as sham and nominal the documents alienated by the 1st defendant/1st respondent herein, in favour of others. After perusing the oral and documentary evidence, the learned District

Munsif, ponneri passed an order dated 23.07.2018 decreeing the suit in favour of the petitioner herein as under:

"1. That the suit be and the same is hereby decreed that the plaintiff is entitled to get 1/3rd share of the property.

2. That the suit be and the same is hereby decreed granting permanent injunction restraining the defendants 1 to 5 and 8 and their men, agents, servants or anyone authorized on their behalf from alienating, encumbering the suit schedule property.

3. That the suit be and the same is hereby decreed declaring that the sale deed dated 03.04.1997 executed in favour of the 8th defendant by the 1st defendant as null and void and not binding on the plaintiff.

4. That the suit be and the same is hereby decreed declaring that the settlement deed dated 29.07.2003 executed in favour of the defendants 2,3,4 and 5 by the 1st defendant as null and void and not binding on the plaintiff.

5. That the suit be and the same is hereby decreed declaring that the General Power of attorney deed dated 16.07.1990 executed in favour of the one P.C. Goshi by the 1st defendant as null and void and not binding on the plaintiff.

6. That the suit be and the same is hereby decreed declaring that the sale deed dated 04.09.1994 executed in favour of the 8th defendant by the 1st defendant as null and void and not binding on the plaintiff.

3. Being aggrieved by the aforesaid order, the respondents herein/defendants 1 to 5 have filed the A.S. No.43 of 2018 before the Sub-Court, Ponneri on 03.11.2018. The same is pending on its file without disposal of the case. Hence, the successful petitioner in the Main suit has filed the present Civil Revision petition seeking for the speedy disposal of case.

4. The learned Counsel for the petitioner would submit that even though the main suit was ordered in favour of the petitioner, the petitioner could not avail the benefit of the order of the Trial Court since the appeal filed by the defendants/respondents herein is pending since 2019 on the file of the Sub-Court, Ponneri. Even though the Appeal in A.S. No.43 of 2018 had been filed on 03.11.2018, the first hearing was scheduled on 23.01.2019 without completion of service. From that day to 27.04.2019, the matter was being adjourned without completion of service. Thereafter, from 06.07.2019 to

01.02.2020, the matter was being adjourned on the ground of awaiting for records. Then, due to pandemic of Covid-19, the case was listed on 06.06.2020 after a long period and the same was further adjourned to 05.09.2020 under the status of awaiting for records. Thereafter, the case was adjourned to 05.12.2020 in view of the constraints of Covid 19. After the case was taken up for hearing on 05.12.2020, the case has been further adjourned to 06.03.2021 without disposal of the case for the reason of awaiting for records. Hence, this Court may be pleased to direct the Court below to dispose of the case as quickly as possible.

5. On a perusal of the records, it is seen that pursuant to the Judgment and Decree dated 23.07.2018 passed by the District Munsif, Ponneri, the petitioner could not avail the benefit of the order due to appeal in A.S. No.43 of 2018 pending before the Sub-Court, Ponneri filed by the defendants/respondents herein. The matter has been adjourned from time to time due to pandemic of Covid 19 and awaiting for records. Considering the facts and circumstances of the case, this Court directs the Court below to take up the matter by considering the

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lbm
plight of the parties and by calling for the records and proceed in accordance with the procedure established under law as expeditiously as possible.

6. With the above directions, the Civil Revision petition is disposed of. Consequently, connected miscellaneous petition is closed if any. No costs.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

Lbm

To:

The Principal Sub-Ordinate Court
Ponneri.

+1 cc to M/s.K.J.Parthasarathy, Advocate Sr.No. 433

C.R.P No.2329 of 2020

SRG (CO)

RMP (22/02/2021)