

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.(PD).No.2662 of 2019
and
C.M.P.No.17570 of 2019

- 1.R.Neelamegam
- 2.N.Manoharan (Died)
- 3.N.Mahendran
- 4.N.Kumar
- 5.N.Raja
- 6.M.Savithiri
- 7.M.Mohan Prabu
- 8.M.Revathi

[Petitioners 6 to 8 brought on record as
LRs of the deceased 2nd petitioner vide
court order dated 08.02.2021 made in
CMP.Nos.41, 43 and 44 of 2021]

.. Petitioners

Vs.

- 1.R.Sornambal
- 2.M.Chandrasekar
- 3.C.Santhosh
- 4.C.Muralishankar
- 5.R.Muthuvel
- 6.N.Ramados
- 7.The Tahsildar, Salem East,
Taluk Office, Salem.
- 8.The Joint I Sub Registrar,
Registration Department,
Door No.314, Third Floor,
Collectorate Campus, Salem – 636 001.
- 9.The Tahsildar,
Taluk Office, Paramathi Town and Taluk,
Namakkal District.
- 10.The Sub Registrar,
Registration Department,
Paramathi Town and Taluk,
Namakkal District.

सत्यमेव जयते

..Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to allow this CRP by setting aside the order in I.A.No.140 of 2018 in O.S.No.239 of 2016 dated 27.06.2018, on the file of the III Additional District Judge, Salem.

For Petitioners : Mr.K.A.Vinod Kumar

For Respondents : Mr.K.Govindarajan for R1 to R4 and R6
Mr.S.Manuraj for R5

ORDER

The Civil Revision Petition has been filed by the petitioners to set aside the order in I.A.No.140 of 2018 in O.S.No.239 of 2016 dated 27.06.2018, on the file of the III Additional District Judge, Salem and to allow this Civil Revision Petition.

2. The petitioners herein are the plaintiffs and the respondents herein are the defendants in the suit in O.S.No.239 of 2016. The plaintiffs and the defendants have entered into an amicable settlement and filed a compromise memo on their own interest, wherein they have agreed that the suit may be dismissed without costs.

3. The suit in O.S.No.239 of 2016 has been filed by the plaintiffs for

*a) Directing the defendants to divide the plaint
schedule properties into three equal shares by taking into*

good and bad qualities of the same allot one such share to the plaintiffs and to put them in separate possession of the same; failing which enable the plaintiffs to get a final decree in terms of the preliminary decree;

b) In case, if, they failed to do so the Honourable Court may be pleased to appoint a Commissioner to divide the suit properties into four equal shares and allot one such share to the plaintiffs by making provision for passing a final decree;

c) Declare the Release Deed dated 31.05.1979 executed by M.Chinnammal, N.Saraswathy and R.Sornambal in favour of M.Chinnusamy and M.Chandrasekaran bearin Document No.6036/1979 registered before the Sub Registrar, Joint II Sub Registrar, Salem in Book 1 Volume 295 with pages 375 to 380 is null and void and not binding on the plaintiffs;

d) Declare the unregistered Deed of Will dated 16.01.1995 executed by M.Chinnammal in favour of M.Chinnasamy and M.Chandrasekaran is null and void and not binding on the plaintiffs;

e) Declare the unregistered Deed of Will dated 24.09.2007 executed by M.Chinnasamy in favour of M.Chandrasekaran, C.Santhosh, and C.Muralishankar is null and void and not binding on the plaintiffs;

f) Declare the Sale Deed dated 24.06.2011 executed by R.Muthuvel in favour of N.Ramadoss bearing Document

No.2571/2011 registered before the Sub Registrar, Paramathi, Namakkal is null and void and not binding on the plaintiffs;

g) Declare the Sale Deed dated 24.06.2011 executed by R.Muthuvel in favour of N.Ramadoss bearing Document No.2574/2011 registered before the Sub Registrar, Paramathi, Namakkal is null and void and not binding on the plaintiffs;

h) Granting Permanent Injunction against the defendants 2 to 4 restraining them, their men, agents from in any way changing the name in the revenue records with regard to the suit property from the 7th and 9th defendants till the partition is made between the plaintiffs and the defendants 1 to 4;

i) Granting Permanent Injunction against the defendants 2 to 4 restraining them, their men, agents from in any way registered any deed with regard to the suit property from the 8th and 10th defendants till the partition is made between the plaintiffs and the defendants 1 to 4;

j) Granting Permanent Injunction against the defendants 2 to 4 restraining them, their men, followers, subordinates, servants, agents etc from any way alienating or encumbering schedule of plaint properties till the partition is effected between the plaintiffs and the defendants 1 to 4 and

k) directing the defendants to pay costs of the suit to the plaintiffs

4. The petitioners 3 to 8 / plaintiffs 3 to 8 as well as the respondents 1 to 6 / defendants 1 to 6 appeared before the court through video conferencing. The Memo of compromise has been filed. The parties as well as the learned counsel for the parties have signed the same. The parties have also affirmed the facts that they have entered into a memo of compromise. The terms of the compromise memo reads as follows:-

“COMPROMISE MEMO

1.Plaintiffs and defendants do admit that there is no Ancestral property of any type that belonged to S.Muthukaruppa Pillai.

2.Plaintiffs and 1st defendant do admit the fact that Saraswathi, 1st defendant and Tmt.Chinnammal, W/o.S.Muthukaruppa Pillai had voluntarily executed a relinquishment deed dated 31.05.1979 in favor of 2nd defendant Chandrasekaran and the 2nd defendant's brother Chinnsamy and received the entire consideration.

3.Plaintiffs and the 1st defendant do admit that the properrties those were purchased in the name of

Muthukaruppa Pillai were Muthukaruppa Pillai's self acquired properties.

4.Plaintiffs and 1st defendant do admit that the properties those were purchased in the name of Chinnammal were Chinnammal's exclusive and independent properties.

5.Plaintiffs and 1st defendant do admit that Chinnammal had executed the two will dated 21.12.1976 and 16.01.1995 in favour of the 2nd defendant Chandrasekaran and 2nd defendant's brother Chinnasamy, while she was in a sound and disposing state of mind and the aforesaid wills were validly attested.

6.Plaintiffs and the defendants do admit that 2nd defendant Chandrasekaran and his brother Chinnasamy had derived title and possession in respect of the entire properties covered and bequeathed under the wills dated 21.12.1976 and 16.01.1995.

7.Plaintiffs and 1st defendant do admit and confirm the fact that the 1st defendant and 2nd

defendant's brother Chinnasamy alone become entitled to the properties those are set out and covered in the wills dated 21.12.1976 and 16.01.1995 and neither the plaintiffs nor the 1st defendant's sister had ever derived any right in respect of the properties set out in the will dated 21.12.1976 and 16.01.1995.

8.Plaintiffs and 1st defendant do admit that the 2nd defendant Chandrasekaran and his brother Chinnasamy alone were in possession and enjoyment of properties covered under the wills dated 21.12.1976 and 16.01.1995 and the plaintiffs, 1st defendant and 1st defendant's sister Saraswathi had no possession or title of any type in and over the properties covered in the aforesaid wills dated 21.12.1976 and 16.01.1995.

9.Plaintiffs and 1st defendant do admit that the 2nd defendant and his brother alone were exclusively running the business, S.Muthukaruppa Pillai sons and the aforesaid business was not connected to the business that was being carried one by S.Muthukaruppa Pillai.

10.Plaintiffs and the 1st defendant do admit that the properties those were purchased in the name of the 2nd defendant are 2nd defendant's exclusive properties and the properties those were purchased in the name of the 2nd defendant's brother Chinnasamy were Chinnasamy's exclusive properties.

11.Plaintiffs and the 1st defendant do admit the facts that properties purchased in the name of Manimekalai, W/o.Chinnasamy were Manimekalai's self acquired properties and that she was in exclusive possession of those properties.

12.Plaintiffs and the 1st defendant admit that 2nd defendant's brother had executed the will dated 24.09.2007 in favour of the defendants 3 and 4/ Santhosh and Murali Shankar in respect of his properties, while he was in a sound and disposing state of mind and the will dated 24.09.2007 was the last will of Chinnasamy and it was validly attested.

13.Plaintiffs and 1st defendant do admit that the defendants 3 and 4 had become entitled to the properties covered under the will dated 24.09.2007

after the demise of Chinnasamy and the defendants 3 and 4 got possession of the properties covered under will dated 24.09.2007.

14.Plaintiffs and the 1st defendant do admit that Manikekali, W/o.Chinnasamy had executed the will dated 05.09.2014 in favour the defendants 3 and 4, while Manimekalai was in sound and disposing state of mind and will dated 05.09.2014 was validly attested and registered in accordance with law.

15.Plaintiffs and 1st defendant do admit that neither plaintiffs nor the 1st defendant got any right or possession in and over the properties those were bequeathed under the will dated 05.09.2014.

16.Plaintiffs and 1st defendant do admit that Saraswathi and 1st defendant had received Rs.25,000/- each by Demand Draft from the 2nd defendant and his brother and executed the confirmation deeds dated 18.04.2001.

17.Plaintiffs and 1st defendant do admit that Saraswathi had signed as a witness in the confirmation

deed executed by 1st defendant and 1st defendant had signed as a witness in the confirmation deed executed by the Saraswathi.

18.Plaintiffs and the 1st defendant do admit that neither Saraswathi nor the 1st defendant nor the plaintiffs got any right or possession in the business S.M.P.Travels, S.M.P.Aerated Aqua, S.Muthukaruppa Pillai Sons Live – O., S.M.P. Express Parcel Services, Sekar Beverages.

19.Plaintiffs and 1st defendant do admit that Chinnammal had not executed any will either on 02.10.1977 or on 12.10.1977.

20.Plaintiffs and 1st defendant do admit that the defendants 2 to 4 would not initiate or pursue any action in a court of law against the plaintiffs and the 1st defendant in connection with the alleged wills dated 02.10.1977 and 12.10.1977.

21.Plaintiffs and 1st defendant do admit that they has no right, title or possession of any type in and over the suit properties and the properties disclosed in the

written statements.

22. Considering the facts and circumstances and to give a quietus to the litigations, a sum of Rs.5,00,000/- is paid by the defendants 2 to 4 to the plaintiffs and the plaintiffs have received Rs.5,00,000/- from the defendants 2 to 4 and a sum of Rs.5,00,000/- is paid by the defendants 2 to 4 to the 1st defendant and the 1st defendant has received Rs.5,00,000/- from the defendants 2 to 4.

23. The defendants 2 to 4 have paid the money to the plaintiffs and the 1st defendant out of mercy and sympathy and not in the recognition of any of the so called rights of plaintiffs and the 1st defendant.

Plaintiffs and the 1st defendant admit that the suit be dismissed without cost in view of the terms of compromise. ”

5. As per the terms of the compromise memo, the suit in

O.S.No.239 of 2016, on the file of the learned III Additional District Judge, Salem stands dismissed without costs. In view of the compromise the Civil

Revision Petition is disposed of. The memo of compromise shall form part and parcel of the order. No costs. Consequently, the connected miscellaneous petition is closed.

16.02.2021

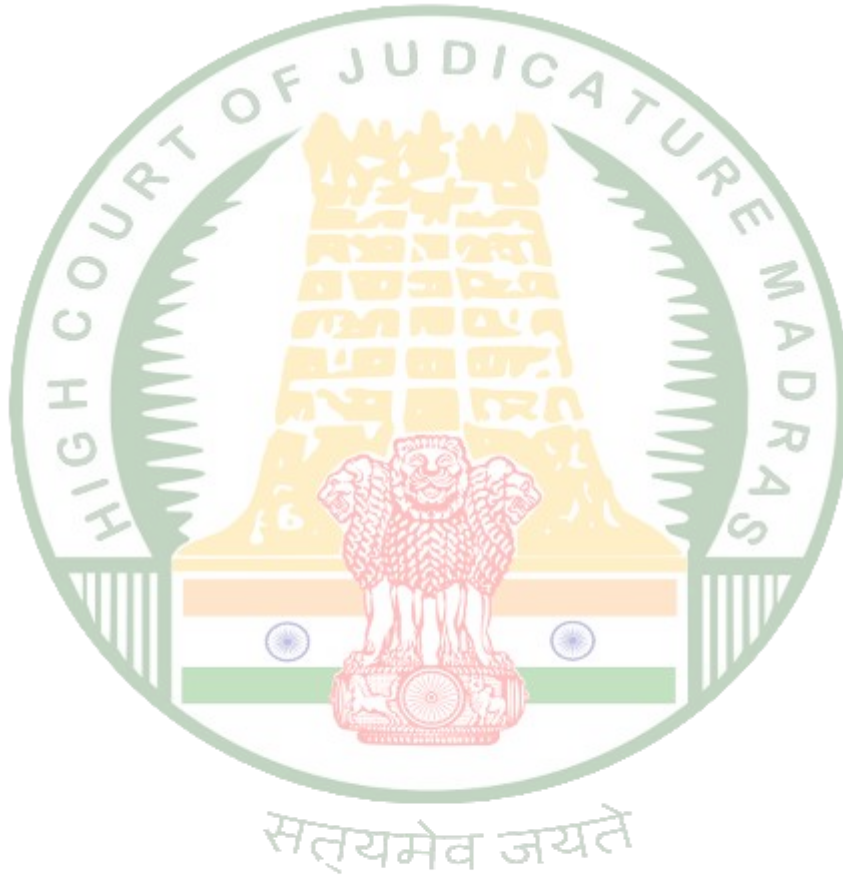
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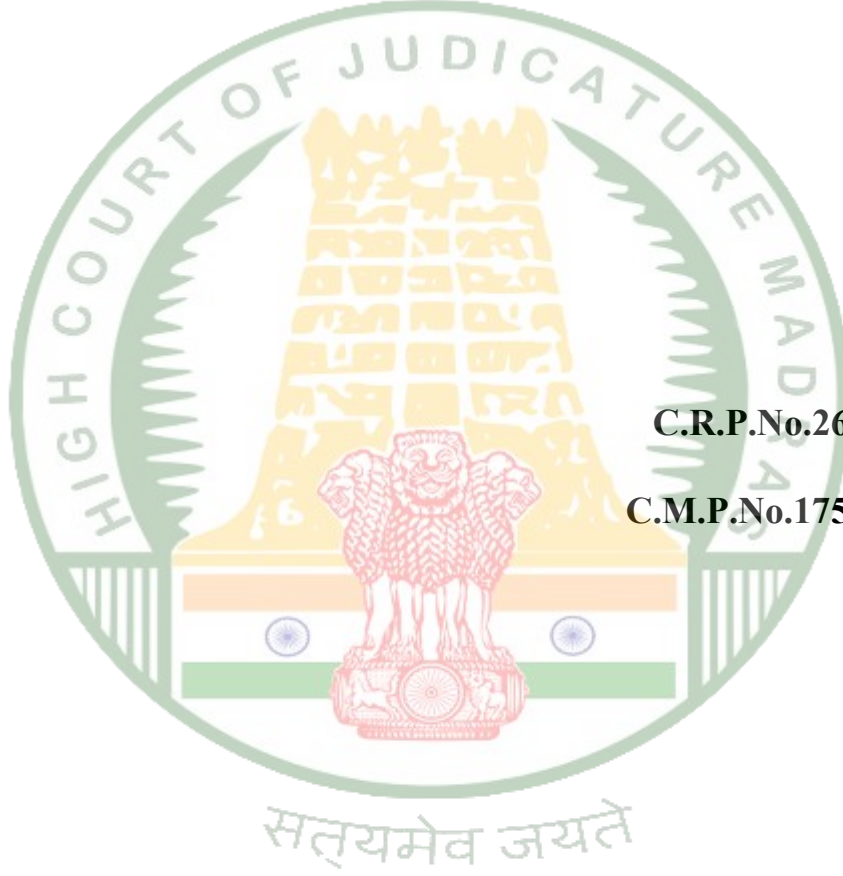
The III Additional District Judge,
Salem.



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V.BHAVANI SUBBAROYAN, J.

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