



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.12.2021**

CORAM :

THE HONOURABLE MS.JUSTICE **P.T.ASHA**

C.M.A. (MD) No.716 of 2021

and

C.R.P. (MD) No.887 of 2021

and

W.P. (MD) No.9525 of 2021

and

W.M.P. (MD) Nos.7259 and 7260 of 2021

In C.M.A. (MD) No.716 of 2021

R.Mariyapillai (died)

M.Parvathy

... Appellants/Respondents/Plaintiffs

vs.

M.Mohanraj

... Respondent/Petitioner/Defendant

PRAYER:- This Petition is filed under Order 43 Rule 1 (r) of C.P.C., to set aside the fair and decreetal order passed in I.A.No.6 of 2021 in O.S.No.99 of 2018 on the file of the learned 1st Additional District and Sessions Court (PCR), Trichy dated 05.07.2021.

For Petitioner : Mr.C.Vakeeswaran
For Respondent : Mr.Shangar Murali

In C.R.P. (MD) No.887 of 2021:-

M.Mohanraj

... Petitioner/Defendant

vs.

R.Mariyapillai (died)

M.Parvathy

... Respondent/2nd Plaintiff

PRAYER:- This Petition is filed under Article 227 of the Constitution of India, to direct the learned 1st Additional District Judge (PCR), Tiruchirappalli to dispose of the suit in O.S.No.99 of 2018 by maintaining status quo as of now within a specified time bound that may be fixed by this Court.

For Petitioner : Mr.Shankar Murali
For Respondent : Mr.C.Vakeeswaran



In W.P. (MD) No.9525 of 2021:-

M.Mohanraj

... Petitioner

vs.

1.The Revenue Divisional Officer cum
Executive Magistrate,
Sub Division,
Thiruchirappalli and District.

2.The Conciliation Officer/District Social
Welfare Officer,
District Social Welfare Office,
Thiruchirappalli and District.

3.The Sub Registrar,
Sub Registrar Office,
Near Aravanoor Bus Stop,
Kulumani Main Road,
Woraiyur,
Thiruchirappalli and District.

4.Parvathy

... Respondents

PRAYER:- This Petition is filed under Article 226 of the Constitution of India, in the nature of Writ of Certiorari, to call for the records relating to the impugned order passed by the 1st respondent in his proceedings in Moo.Mu.A.1/3996/2019 dated 23.04.2021 and quash the same as arbitrary and illegal.

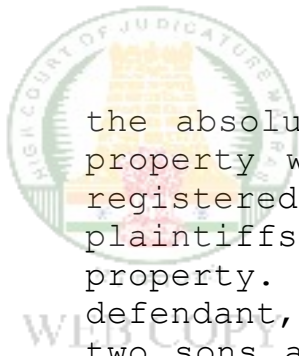
For Petitioner : Mr.Shankar Murali
For R1 to R3 : Mr.N.G.A.Natraj
Government Advocate

COMMON ORDER

The above C.R.P.(MD) No.887 of 2021 has been filed seeking an early disposal of the suit in O.S.No.99 of 2018 on the file of the learned District Judge (PCR), Tiruchirappalli.

2.In the normal circumstances, this Court would not be delving deep into the facts of the case. However, considering the fact that a common order is proposed to be passed in the above petitions, a brief prelude to the dispute between the parents and the sons and others is necessary to appreciate the dispute on hand.

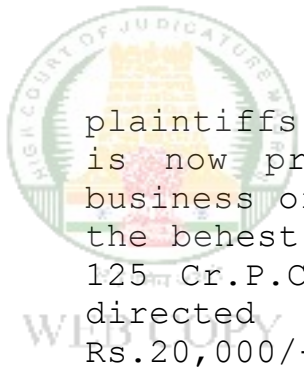
3.The admitted case of both the parties is that the property, subject matter of the suit in O.S.No.99 of 2018, is



the absolute property of the plaintiffs. The 1st item of the suit property was purchased by them on 30.11.1998 under two separate registered sale deeds in the names of the plaintiffs. The plaintiffs have been in joint possession and enjoyment of the said property. The plaintiffs have 3 sons and 2 daughters. The defendant, who is the 3rd son, lives with the plaintiffs. The other two sons and two daughters are married and living separately. The 1st plaintiff was running a medical shop at YMCA Building in the name and style of "Aswini Medicals". Since the 1st plaintiff was getting on in age, he had allowed the defendant to run and manage the medical shop from the year 2011. The 1st plaintiff used to visit the shop some time in the evening till recently.

4.It is the case of the plaintiffs that the defendant had approached them stating that he required money to expand the business and therefore, a document need to be executed in his favour so as to enable him to raise a loan. The 1st plaintiff totally trusting his son executed a settlement deed in his favour. The 1st plaintiff agreed to the same on condition that the defendant would take care of the parents, namely, the plaintiffs and that the deed would only be a sham and nominal one and that after the life time of the parents, the property was to be shared equally by all the children. The plaintiffs totally trusting their son had affixed signatures on 7 documents given by the defendant before the Sub Registrar's Office at Woraiyur. The plaintiffs did not read the document nor did they know the nature of the document that they had executed. The defendant had taken charge of all the original documents in respect of the 1st item of the property stating that he required the same to raise the loan. Thereafter, once the document had been made over to him, the defendant's attitude was totally changed and he started behaving in a very rude fashion and had requested the 1st plaintiff not to come to the shop any longer. He had also stopped providing for medical treatment and personal expanses to the plaintiffs. The demand of the plaintiffs to be paid from the income from the medical shop was also not taken note of. This changed attitude caused a doubt in the mind of the 1st plaintiff, who demanded the mandatory accounts for the shop, which was rudely turned down by the defendant.

5.In the last week of February, 2017, the plaintiffs started making an enquiry and only then, they came to know that the defendant had got a settlement deed executed in his favour in respect of the 1st item of the property and had not got a Will executed. Thereafter, the plaintiffs came to know about the fraud committed when they got a certified copy of the settlement deed dated 29.06.2012. This document is a fraudulently created document, which came to the knowledge of the plaintiffs only on February, 2017. The above factors have therefore compelled the



plaintiffs to come before the Court of law. In fact, the defendant is now preventing the 1st plaintiff from participating in the business of 'Aswini Medicals'. It appears that the 2nd plaintiff at the behest of her elder brother had filed a petition under Section 125 Cr.P.C., claiming maintenance. The Family Court, Trichy had directed the petitioner to pay a sum of Rs.20,000/- by its order dated 30.05.2018. In fact, it is the case of the defendant that he had been paying Rs.10,000/- to the parents and that he had paid the amount as directed. Simultaneously, the 2nd plaintiff had filed a petition before the Revenue Divisional Officer cum Executive Magistrate for a direction to cancel the settlement deed dated 29.06.2012 in Doc.No.4781/2012. The matter was referred to a Conciliation Officer, before whom the defendant as well as the plaintiffs had appeared on various dates and no conciliation could be arrived at and therefore, the matter was referred back to the Revenue Divisional Officer cum Executive Magistrate. The Revenue Divisional Officer cum Executive Magistrate by his order dated 23.04.2021 cancelled the settlement deed executed in favour of the defendant. The Revenue Divisional Officer while passing the impugned order has observed as follows:-

"இந்த ஆணை சென்னை உயர் நீதிமன்ற மதுரைக் கிளையில் மனுதாரர் மற்றும் அவரது கணவர் மாரியாபிள்ளை ஆகியோர் தாக்கல் செய்த வழக்கு எண். Cr.M.P.No.489/2018 மற்றும் திருச்சிராப்பள்ளி மாவட்ட நீதிமன்ற அசல் வழக்கு எண்.99.2018 ஆகிய வழக்குகளின் தீர்ப்புரைக்கு கட்டுப்பட்டது."

6.Challenging the order passed by the Revenue Divisional Officer cum Executive Magistrate, Trichy, the defendant had filed W.P.(MD) No.9525 of 2021. Further, pending the suit, the defendant had filed an application in I.A.No.6 of 2021 for an injunction restraining the 2nd plaintiff from annulling, revoking, cancelling, altering or modifying the registered settlement deed dated 29.06.2012 bearing No.4781 of 2012 and also from encumbering or alienating the 1st item of the suit property in favour of the third parties. The learned 1st Additional District and Sessions Judge, (PCR), Tiruchirappalli by his order dated 05.07.2021, pleased to allow the said application after hearing both the parties. The said order is the subject matter of challenge before this Court in CMA(MD) No.716 of 2021.

7.Heard the learned counsels on either side and perused the records.

8.The issue involved in the writ petition and the suit arises out of the settlement deed executed by the plaintiffs in favour of the defendant and the allegation of the plaintiffs that the defendant has violated his obligations under the deed, it is necessary that the suit in O.S.No.99 of 2018 be disposed of at the earliest.



9. Records would show that the written statement had been filed and the suit is ripe for trial. Records would also reveal that the written statement had been filed and issues have also been framed. Both the parties agreed that the suit should be disposed of within a period of four months. Accordingly, C.R.P.(MD) No.887 of 2021 is allowed, directing the learned 1st Additional District and Sessions Judge, (PCR), Tiruchirappalli to dispose of the suit in O.S.No.99 of 2018 within a period of four months from the date of receipt of a copy of this order. Since the suit is now directed to be disposed of within a time frame, no orders are required to be passed in C.M.A.(MD) No.716 of 2021, as the plaintiffs have the benefit of injunction from the date of filing of the I.A., till its disposal and the order has not been suspended in the appeal. Therefore, C.M.A.(MD) No.716 of 2021 stands dismissed. As regards W.P.(MD) No.9525 of 2021, the Revenue Divisional Officer cum Executive Magistrate, Trichy has cancelled the settlement deed subject to the outcome of the O.S.No.99 of 2018. Since the Revenue Divisional Officer cum Executive Magistrate, Trichy has clearly stated that the cancellation of the settlement deed would be subject to the ultimate result of the civil Court, no orders need to be passed in W.P.(MD) No.9525 of 2021 and accordingly, W.P.(MD) No.9525 of 2021 stands disposed of.

10. In fine, C.M.A.(MD) No.716 of 2021 stands dismissed, C.R.P.(MD) No.887 of 2021 stands allowed and W.P.(MD) No.9525 of 2021 stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

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/ /2021

Sub Assistant Registrar(CS)

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To

1. The 1st Additional District and Sessions Judge (PCR),
Trichy.
2. The Revenue Divisional Officer cum
Executive Magistrate,
Sub Division,
Thiruchirappalli and District.



3.The Conciliation Officer/District Social Welfare Officer,
District Social Welfare Office,
Thiruchirappalli and District.

4.The Sub Registrar,
Sub Registrar Office,
Near Aravanoor Bus Stop,
Kulumani Main Road,
Woraiyur,
Thiruchirappalli and District.

Copy to

The Section Officer, V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+2 CC to M/s.K.S.SANKAR MURALI, Advocate (SR-37365[F] dated 06/12/2021)

+3 CC to M/s.C.VAKEESWARAN, Advocate (SR-37375, 37376 & 37377[F] dated 06/12/2021)

+1 CC to M/s.SPL.GP (SR-37386[F] dated 06/12/2021)

**C.M.A. (MD) No.716 of 2021
and
C.R.P. (MD) No.887 of 2021
and
W.P. (MD) No.9525 of 2021
03.12.2021**

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