



C.R.P.No.900 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2022

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

**C.R.P.No.900 of 2019**

S.Karthikeyan

.. Petitioner

Vs.

1. Sivasubramanian

2. Maragatham

3. S.Rajalakshmi

4. S.Rekha

5. Jayabalan

6. Sangeetha

.. Respondents

**Prayer:-** Civil Revision Petition filed under Article 227 of the Constitution of India as against the Fair and Decreetal order dated 22.01.2019 by I Assistant Judge City Civil Court at Chennai by rejecting the plaint O.S.S.R.No.73495 of 2018.

For Petitioner : Mr.L.J.Krishnamurthy

For Respondents

R1 to R4 : No appearance  
Notice served

R5 and R6 : Mr.V.Purushothaman  
for Mrs.E.Angayarkanni

**ORDER**



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This Civil Revision Petition has been filed as against the Fair and Decreetal order dated 22.01.2019, passed by the learned I Assistant Judge, City Civil Court, Chennai, thereby rejecting the plaint for the reason that the petitioner has no *locus standi* to file a suit and the suit is barred by limitation.

2. The petitioner is the Plaintiff in the suit. He had filed a suit as against the respondents for declaration declaring that the sale deed executed by the first and second defendants in favour of the fifth defendant, dated 05.11.1999 as null and void and also prayed for declaration declaring that the settlement deed executed by the fifth respondent in favour of the sixth respondent dated 03.06.2004 registered vide Document No.1646 of 2004 as null and void.

3. According to the petitioner, he is the only son born to the first defendant. The second defendant is the mother and the defendants 3 and 4 are his sisters. The suit property bearing Door No.22/43, Apparsamy Koil Street, Mylapore, Chennai 600 004, was originally purchased by one Natesa Gramani, who is none other than the grand father of the plaintiff,



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who had settled the property by way of a registered settlement deed dated 21.09.1953 in favour of his legal heirs, in respect of various properties.

One among the properties is the suit property which was settled in favour of the first defendant. As per the settlement deed, the first defendant was given only life time interest over the suit property and the absolute right was given to the male child born to the settlee i.e, the petitioner herein. Therefore, the first defendant has no right to sell the property or settle the property in any one's favour. The petitioner was arrested in a criminal case and subsequently released on bail. Only thereafter, he had knowledge about the sale deed and the settlement deed in respect of the suit properties. Therefore, he had filed a suit.

4. A perusal of the impugned order revealed that the Trial Court had rejected the plaint for the reason that the suit itself is barred by limitation and the petitioner has no *locus standi*. The Trial Court ought to have numbered the suit first, if it is in order and the Trial Court can very well frame the preliminary issues in respect of the limitation and *locus standi*, since admittedly the petitioner was born to the first defendant and



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therefore, he has challenged the settlement deed and sale deed executed by the defendants.

5. Hence, the order passed by the Court below cannot be sustained and it is liable to be set aside. Accordingly, the Fair and Decreetal order dated 22.01.2019 in O.S.S.R.No.73495 of 2018, passed by the learned I Assistant Judge City Civil Court, Chennai, is hereby set aside. The Trial Court is directed to number the suit, if it is otherwise in order and frame the issues with regard to limitation and *locus standi* and proceed with the suit and decide the same, on merits and in accordance with law.

6. In view of the above, this Civil Revision Petition is allowed. No costs.

20.12.2022

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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**G.K.ILANTHIRAIYAN,J.**



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To

The I Assistant Judge City Civil Court, Chennai.

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