



CRP.No.1869 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 29.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Civil Revision Petition [PD] No.1869 of 2015

& M.P.No.1 of 2015

1. S.A.Raman
2. Shanmughavadivu Raman ... Petitioner

..Vs..

1. K.Devaraj
2. K.Elumalai
3. K.Dhakshinamoorthi
4. Padmavathy
5. K.Adhilakshmi
6. K.Ramadoss
7. Dhanammal
8. K.Vijayakumar Reddy
9. Kalpana Chittarajan
10. Vasanthi Ezhilmani
11. Vijayakumari
12. Chandramohan
13. Johnson
14. G.Nesamani
15. Sagaya Doss
16. Sathish
17. Vasuki
18. J.Sathishkumar ... Respondents



CRP.No.1869 of 2015

Prayer: Civil Revision Petition has been filed under Article 227 of Constitution of India for striking of the plaint on the ground of abuse of process of Court in O.S.No.474 of 2014 on the file of the District Munsif at Chengalpet.

For petitioners : Ms.V.J.Latha

For Respondents : No appearance

ORDER

This Civil Revision Petition has been filed to strike of the plaint filed in O.S.No.474 of 2014 on the file of the District Munsif at Chengalpet.

2. The plaintiff has filed the suit in O.S.No.474 of 2014 for declaration that the plaintiffs are co-owners of the suit property along with the first defendant, to declare that the power of attorney executed by the first defendant in favour of the second defendant as null and void and to declare that the subsequent sale deeds executed in favour of the respondents 2 to 13 and the settlement deed executed by the 7th defendant in favour of the 14th defendant as null and void and for consequential injunction restraining the defendants from alienating the suit property and for costs.



CRP.No.1869 of 2015

3. Though sufficient opportunity has been given to the respondents they never appeared before this Court. Hence, this Court has no other option except to pass an Order with the available records.

4. It is the specific contention of the learned counsel for the petitioners that suit has been filed stating that the property has been purchased by their father in the name of his wife, Dhanammal as a benami. The suit has been filed after 23 years without any cause of action and therefore such filing of the above suit is clearly barred by limitation.

5. A perusal of the records shows that the Respondents 1 to 6 herein claiming as co-owners, have filed the suit in O.S.No.474 of 2014. The contention of the learned counsel for the petitioners is that as per section 4 of the Benami Transactions [Prohibition] Act, 1998, no suit will lie on the ground of Benami. Moreover, the suit has been filed after 14 years of execution of the sale deeds and after 23 years of expiry of their father Kuppan, who is said to have purchased the property in the name of his wife.



CRP.No.1869 of 2015

6. In spite of sufficient opportunity given to the respondents, none appeared for the respondents. The sale deed executed by the said Dhanammal was acted upon and various developments have taken place. Further, the sale deed stands in the name of Danammal and she has authorized and executed Power of attorney to sell the property in the year 1999. Therefore, this Court is of the view that the contention of the learned counsel for the petitioners holds much force, as a reason to be considered for allowing of this application. Hence, the present suit to declare the subsequent sales and settlement as null and void is hopelessly barred by limitation and the plaint has to be struck off.

7. Accordingly, this Civil Revision Petition is allowed and the plaint in O.S.No.474 of 2014 is struck off. Consequently, connected miscellaneous petition is closed. No costs.

29.03.2022

vrc



CRP.No.1869 of 2015

Index:yes/no

Internet:yes

To

The District Munsif, Chengalpet.



WEB COPY



CRP.No.1869 of 2015

J.NISHA BANU, J.

vrc

Civil Revision Petition [PD] No.1869 of 2015

29.03.2022