



C.R.P.No.1256 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	:	11.07.2022
PRONOUNCED ON	:	14.10.2022

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.No.1256 of 2019
and C.M.P.No.8164 of 2019

- 1) M.Palanisamy
- 2) M.V.Ravichandran
- 3) M.Ganesan

.. Petitioners / Petitioners
Defendants 11 to 13

Versus

- 1) A.Periyasamy alias Watchkarar
- 2) C.Manoharan
- 3) Shanmuga Priya
- 4) Lakshmi
- 5) P.Sengottaiyan
- 6) Vivekanandan
- to 6/

.. Respondents/RR 1

Plaintiffs

- 7) S.Dhanasekaran
- 8) Saroja
- 9) Maheswari
- 10) Sagunthala
- 11) N.Manikkam



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- 12) R.Ganesan
13) K.Murugesan @ Kolusu Murugesan

- 14) R.Subramani
15) B. Sivakumar
16) P. Venkatraj
17) G. Perumal
18) V. Thangaraj

- 19) Sub-Registrar Office,
Mechery,
Omalur Taluk,
Salem District.

- 20) The District Collector,
Collectorate,
Salem – 1

.. Respondents/ RR 8 to 20/
Defendants 1 to 10 & 14 to 18

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order, dated 19.09.2018 passed by the learned District Munsif, Omalur in I.A.No.157/2017 in O.S.No.262/2016.

For Petitioners : Mr.K.Ramanraj
For RR 1, 4 to 6 : M/s.P.Srividhya
For RR 2 & 3 : M/s.S.Murugan
For RR 7 to 20 : Given up

ORDER

This Civil Revision Petition has been filed by the aggrieved petitioners herein against the order dated 19.09.2018 passed by the learned District



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Munsif, Omalur in I.A.No.157/2017 in O.S.No.262/2016.

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2. The brief facts that are necessary for the disposal of the present civil revision petition are as follows:-

2.1. The respondents 1 to 6 are the plaintiffs in O.S.No.262 of 2016.

The said suit was filed seeking for declaration of title of the suit property, in favour of the plaintiffs and the instruments of sale executed by the defendant nos.1, 3,4 & 5 in favour of the defendant no.6 to 16 in respect of the suit schedule property, as null and void and for declaring the sale deeds in Document Nos.870 & 871 of 2007, dated 30.03.2007 executed by the defendants 1 to 6 as null and void.

2.2. Meanwhile, the defendants 11 to 13 in the above said suit, filed an application in I.A.No.157/2017, under Order 7 Rule 11 of the Civil Procedure Code for rejecting the plaint. The learned District Munsif, Omalur, after hearing both sides, had dismissed the application. Aggrieved against the same, the defendants 11 to 13 have filed the present revision.

3. The learned counsel for the revision petitioners would state that the plaintiffs had the knowledge about the execution of sale deed in favour



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of the respondents 12 and 13 prior to the filing of the suit. Therefore, according to him, the suit for declaration of the sale deeds in Document Nos.870 & 871 of 2007, dated 30.03.2007 as null and void, should be filed on or before 06.05.2015. Since the suit is belatedly filed, the same is barred by limitation. Moreover, it is his further contention that the suit itself is not maintainable, since the first defendant viz. Kuppusamy Gounder died on 06.06.2012, whereas the suit was filed only on 23.11.2016.

3.1. Further, the learned counsel for the revision petitioners would submit that the Court below failed to see that the respondents did not value the suit correctly, in respect of the relief claimed and also, there has been improper payment of court fees by the respondents.

3.2. Without considering the above facts and circumstances, the Court below has rejected the claim of the petitioners, by dismissing the application in I.A.No.157/2017 in O.S.No.262/2016 vide order dated 19.09.2018 on the file of learned District Munsif, Omalur which is perverse and illegal. Hence, the learned counsel for the revision petitioners prayed for setting aside the above order dated 19.09.2018 made in



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I.A.No.157/2017 in O.S.No.262/2016, thereby allowing the present revision.

4. Per contra, the learned counsel appearing for the respondents would submit that the learned District Munsif, Omalur, after considering the submissions made on either side, has passed a well-considered order and the same warrants no interference by this Court. Therefore, the learned counsel prayed for the dismissal of the present revision petition.

5. I have heard the submissions advanced by the learned counsel for the revision petitioners and the respondents and also gone through the documents placed before this Court.

6. Perusal of the records would go to show that the question of limitation, is mixed question of law and facts. In the considered opinion of this Court, while admitting the plaint, a learned Judge has to look only into the averments made in the plaint and by relying on the judgments of the Hon'ble Supreme Court made in ***Bhan Ram vs. Jank Singh*** reported in **2012 (4) CTC 675**, and also the judgment reported in ***Gunaseelan Vs. C.Valarmathu(mad)*** reported in **2010(1) MLJ 1056**, wherein it has been



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held that the averments made in the plaint alone should be taken into consideration while dismissing the petition for rejecting the plaint and upon considering the same, the learned Judge has rightly dismissed the application for rejecting the plaint, stating that the question of limitation and pendency in payment of court fee shall be decided at the time of trial. This Court finds no infirmity in the order, dated 19.09.2018 passed in I.A.No.157/2017 in O.S.No.262/2016. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

14.10.2022

Index : Yes / No
Internet : Yes
sts/pm

To:

- 1) The District Munsif,
Omalur.
- 2) The Section Officer, V.R.Section,
High Court,



Madras.

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J.NISHA BANU, J.,
sts

Order made in
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Dated:
14.10.2022