



C.R.P.No.1956 of 2020
and C.M.P.No.12126 of 2020

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2022

CORAM

THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

C.R.P.No.1956 of 2020

and

C.M.P.No.12126 of 2020

1.G.Krishnamoorthy

2.G.Jayapal

3.G.Gowri

4.G.Jayanthi

... Petitioners

Vs.

1.S.Sekar

2.S.Maheswari

3.C.Govindaraj

4.G.Kesavan

5.Maheswari

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal orders dated 27.11.2019 passed in I.A.No.104 of 2019 in O.S.No.6 of 2014 on the file of the Additional District Judge (FTC), Vellore.



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For Petitioners : Mr.S.Doraiswamy
For Respondents : No appearance

ORDER

The present Civil Revision Petition is filed against the fair and decreetal orders dated 27.11.2019 passed in I.A.No.104 of 2019 in O.S.No.6 of 2014 on the file of the Additional District Judge (FTC), Vellore.

2.The revision petitioners are the defendants in the suit in O.S.No.6 of 2014 on the file of the Additional District Judge (FTC), Vellore. They filed the suit for declaration of their title to the suit property and for delivery of vacant possession of the same.

3.The defendants filed their written statement and subsequently the plaintiffs filed a petition under Order VI Rule 17 and Section 151 of the Code of Civil Procedure praying to amend the plaint as detailed below
:



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WEB CO "1.Add the following as para 9(c) of the plaint

"The plaintiffs state that the plaintiffs purchased the property on 27.08.2012 under a registered sale deed for valid consideration from its lawful and legal owners and the plaintiffs are bonafide purchasers. But the defendants 1 to 5 on one hand and the defendants 6 to 8 on the other hand colluded together and made the defendants 1 to 5 to file a suit for partition, O.S.No.331/2012, on the file of the Sub Court at Vellore, without the knowledge of the plaintiffs and behind the back of the plaintiffs. By filing the said suit, the defendants 1 to 5 obtained a collusive decree within six months, on 13.06.2013 itself. The defendants 6 to 8 remained ex-parte in the said suit. As the said suit has been filed after the sale of the property to the plaintiffs, the defendants 1 to 5 have no rights in the suit property. Hence, the said decree in O.S.No.331/2012 is only a collusive decree obtained by them in order to defraud the plaintiffs. The plaintiffs also filed Transfer OP.No.96/2016 for transfer of O.S.No.331/2012 to this Hon'ble Court for trial of the said suit along with this suit. However, this Hon'ble Court was pleased to dismiss the said transfer petition. Hence, the plaintiffs are seeking the relief of declaration that the decree obtained by the defendants 1 to 5 in collusion with the defendants 6 to 8 on



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and void and not binding upon the plaintiffs herein"

2.Insert the following in cause of action para of the plaint, in
Page No.8 in line No.14, after the words "suit property":

"On 10.12.2012, when the defendants 1 to 5 filed
the collusive suit, O.S.No.331/2012, on the filed of the Sub
Court at Vellore, on 13.06.2013, when they obtained as
collusive decree",

3.Delete the figure "14,38,000" and "1,07,851.50" in para 11
of the plaint and put in their place "14,39,000" and 1,07,927"
respectively.

4.Add the following in para 11 of the plaint:

"Section 25(d) of TNCF Act"

5.Add the following as para 12(b) of the plaint:

"granting a decree of declaration that the collusive
preliminary decree dated 13.06.2013 obtained in
O.S.No.331/2012, Sub court, Vellore by the defendants 1 to 5
against the defendants 6 to 8 is null and void and not binding
upon the plaintiffs"



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6.Array paras 12(b) to 12(e) as 12(c) to 12(f) of the plaint.

7.Add the following in particulars of valuation of the plaint:

Value of the suit for the purpose of declaration

that the decree obtained in O.S.No.331/2012,

Sub Court, Vellore is null and void is fixed at ... Rs.1,000.00

Court Fee paid under Section 25(d)

of TNCF Act is

... Rs.

75.50

8.Delete the figure "14,38,000" from particulars of valuation of the plaint and put in its place "14,39,000" by adding Rs.1,000/- for the relief claimed under Section 25(d) of TNCF Act.

9.Delete the figure "1,07,851.50" from particulars of valuation of the plaint and put in its place "1,07,927".

10.Add "Section 25(d)" in the last para of particulars valuation given in the plaint."



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4.The revision petitioners / defendants filed their counter contending that the petition is filed only to drag on the proceedings and that it is false to contend that the plaintiffs purchased the suit property through a registered sale deed dated 27.08.2012. It is also contended that the petitioners had falsely claimed that they came to know about the passing of preliminary decree in O.S.No.331 of 2012 very recently. The learned Additional District Judge (FTC), Vellore, allowed the petition vide his fair and decretal orders dated 27.11.2019. Aggrieved over the same, the present Civil Revision Petition is filed.

5.Heard Mr.S.Doraiswamy learned counsel appearing for the revision petitioners. No representation on behalf of the respondents.

6.The main amendment sought to be made in the plaint is that the decree passed in O.S.No.331 of 2012 on the file of Sub Court, Vellore is null and void. The specific contentions of the plaintiffs is that they were



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not aware of the suit in O.S.No.331 of 2012 and that preliminary decree was passed without making them as parties in the suit. It is further contended by the plaintiffs that the defendants 1 to 5 in collusion with the defendants 6 to 8 filed the suit in O.S.No.331 of 2012 and obtained a fraudulent decree. The plaintiffs in the petition under Order VI Rule 17 and Section 151 of CPC wanted to amend the pleadings and prayer with regard to the decree passed in O.S.NO.331 of 2012 on the file of Subordinate Court, Vellore. The trial in the present suit has not yet commenced. The learned trial Court Judge while allowing the petition observed that by allowing this amendment multiplicity of proceedings could be avoided and that the present petition is also filed prior to the commencement of trial. I do not find any infirmity in the orders passed by the trial Court. Moreover, the pleadings and prayer now sought for by the plaintiffs are not barred under the law of limitation. The defendants can always file suitable additional written statement and contest the suit.



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7. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl



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R. HEMALATHA, J.
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To

- 1.The Additional District Judge (FTC), Vellore.
- 2.The Section Officer, VR Section, High Court, Madras.

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