



C.R.P. (PD) No.1111 of 2021
and CMP No.8655 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Civil Revision Petition (PD) No.1111 of 2021
and CMP No.8655 of 2021

Chitra Ammal

.. Petitioner

Vs.

1. Anand

Murugesan (died)

2. Muthu

3. Vijayarangan

4. Dinesh Babu

5. N.Sivaprakasam

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order dated 23.02.2021 passed in I.A.No.107 of 2020 in O.S.No.83 of 2016 on the file of the learned Principal District Munsif at Thiruvannamalai.



C.R.P. (PD) No.1111 of 2021
and CMP No.8655 of 2021

For Petitioner : Mr.G.Kalyan Jhabakh
for M/s.Surana and Surana

For Respondents : Mr.Sriram
for Mr.K.Govi Ganesan

ORDER

The plaintiff aggrieved by the rejection of her application for amendment of the plaint is on Revision.

2. The plaintiff filed a suit for permanent injunction restraining the defendants from interfering with her possession claiming that the suit property belonged to her and her relative Sivaprakasam and that she is in possession of the property. It was also contended that the first defendant as power agent had fraudulently brought about the sale deed on 02.05.2011 in favour of defendants 2 to 4 and defendants 2 to 4 are attempting to interfere with her possession based on the said fraudulent sale deed.



C.R.P. (PD) No.1111 of 2021
and CMP No.8655 of 2021

WEB COPY

3. The fourth defendant filed a written statement contending that they have derived title under the Sale Deed dated 02.05.2011 and the plaintiff has no title over the property. The title of the plaintiff was specifically denied. Thereafter the plaintiff came up with the application in IA No.107 of 2020 seeking amendment to introduce the following prayers:

(i) Declaring that plaintiff and Sivaprakasam are the joint owners of Plaint Schedule property;

(ii) Declaring that the Sale Deed dated 02.05.2011 executed by the first defendant as Power of Attorney of Mahant Basant Das Bavaji in favour of Defendants 2 and 4 and registered as Document No.5405 of 2011 on the file of the office of the Join-Sub Registrar, Thiruvannamalai, is void not true and valid and not binding on the Plaintiff and her Co-owner Sivaprakasm;

(iii) Alternatively directing defendants 1 to 5 to deliver possession of the Plaint schedule mentioned property to the plaintiff and her co-owner Sivaprakasam.



C.R.P. (PD) No.1111 of 2021
and CMP No.8655 of 2021

WEB COPY

4. According to the plaintiff, the denial of title by the defendants in the written statement compels her to seek declaration of title, declaration that the Sale Deed dated 02.05.2011 is invalid and for an alternative prayer for delivery of possession. The Trial Court dismissed the application on the ground that the prayer for declaration of title is barred by limitation, inasmuch as the title was denied even in the written statement filed in the year 2015.

5. Even though the Trial Court cannot be faulted for dismissing the application regarding the first prayer namely declaration of title, I do not think the Trial Court was justified in rejecting prayer No.3, namely the prayer for delivery of possession sought to be included as an alternative prayer. As regards declaration that the Sale Deed dated 02.05.2011 is void, not true and valid and not binding on the plaintiff and the co-owner Sivaprakasam, the same is wholly unnecessary, since the plaintiff is not a party to the same, she can ignore the same and maintain the suit for recovery of possession or permanent injunction as prayed for in the suit.



C.R.P. (PD) No.1111 of 2021
and CMP No.8655 of 2021

WEB COPY

6. As far as the third prayer is concerned, the suit itself is of the year 2016 and the Sale Deed in favour of the defendant is of the year 2011. The application for amendment has been filed in the year 2020 within the period of 12 years. The third prayer cannot be said to be barred by limitation. Therefore, the Trial Court was not justified in dismissing the application even as regards the third prayer is concerned.

7. Hence the Revision is **partly allowed**, the application in IA No.107 of 2020 is allowed only in respect of the third prayer namely, the alternative relief for possession. As regards the prayer Nos. 1 and 2 which are sought to be included, the application for amendment will stand dismissed. The plaintiff is therefore permitted to include paragraph 9(c) and the third prayer by way of amendment. Consequently the connected miscellaneous petition is closed. No costs.

jv

04.01.2022

Index: Yes/No

Internet: Yes/No

Speaking order/Non Speaking Order

5/6



WEB COPY



C.R.P. (PD) No.1111 of 2021
and CMP No.8655 of 2021

R.SUBRAMANIAN, J.

jv

To

1. The Principal District Munsif
Thiruvannamalai.
2. The Section Officer,
V.R.Section,
High Court of Madras.

Civil Revision Petition (PD) No.1111 of 2021
and CMP No.8655 of 2021

04.01.2022