



WEB COPY



C.R.P(NPD).No.1876 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P.(NPD).No.1876 of 2022

G.Kalaiselvi

... Petitioner

..Vs..

1.P.Thangamani

2.Meena

3.Geetha

4.Malathi

5.Devi

6.Aravind

7.Amsa

... Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the

Constitution of India, against the order of the learned I Additional Judge,

City Civil Court (V Additional Judge FAC), Chennai, dated 02.03.2022

made in O.S.Sr.No.13008 of 2021.

For Petitioner : Mr.M.Tamizavel



C.R.P(NPD).No.1876 of 2022

ORDER

WEB COPY

This Civil Revision Petition has been preferred challenging the order of the learned I Additional Judge, City Civil Court (the learned V Additional Judge FAC), Chennai, dated 02.03.2022 made in O.S.Sr.No.13008 of 2021.

2.The revision petitioner is the plaintiff who has filed the suit for declaration and recovery of possession and also for mandatory injunction. The learned trial Judge had rejected the suit by its order dated 02.03.2022. Aggrieved over that, the petitioner has preferred this revision petition.

3.The learned counsel for the petitioner submitted that the plaintiff derives title in respect of the suit property by virtue of a settlement deed dated 07.09.1977 executed by her paternal grandmother. As per the recitals of the settlement deed, the settlor reserves life interest and after her life time, both her sons namely V.Subramani and V.Prabakaran



C.R.P(NPD).No.1876 of 2022

should enjoy the property till their life time and thereafter, children born to V.Subramani and V.Prabakaran will become the absolute owners of the suit property. As per the recitals of the plaint, the settlor and her two sons namely V.Subramani and V.Prabakaran had died and the plaintiff is said to be only daughter born to V.Subramani and other son V.Prabakaran did not have any issues. The suit has been filed by the plaintiff against the alleged legal heirs of V.Prabakaran. The learned trial Judge has rejected the plaint by stating that the plaint is a premature one because after the death of V.Prabakaran his wife has got right to reside in the suit property and hence, the suit filed for recovery of possession is not maintainable.

4.The recitals of the settlement deed would show about the limited right and enjoyment given to the sons of settlor. However, these factual aspects can be dealt at length during the time of trial. Since the settlor and her sons in whose favour a life interest was vested are no more now. The plaintiff has come forward with the suit for declaration, only after their death and therefore, the suit is maintainable. Had the plaintiff filed a suit



C.R.P(NPD).No.1876 of 2022

during the life time of either of the son born to the settlor, then it would be correct to state that the suit is a premature one. Since the suit has been filed after their life time, the order of the learned trial Judge is liable to be reversed.

5.Accordingly, this Civil Revision Petition is allowed and the order of the learned I Additional Judge, City Civil Court (the learned V Additional Judge FAC), Chennai, dated 02.03.2022 in O.S.Sr.No.13008 of 2021, is reversed. No costs.

14.07.2022

vkf

Index:Yes No

Speaking Order:Yes/No

To

- 1.The I Additional Judge, City Civil Court,
Chennai.
- 2.The Section Officer,
VR Section, Madras High Court,
Chennai.

4/5



WEB COPY



C.R.P(NPD).No.1876 of 2022

R.N.MANJULA,J.

Vkr

C.R.P.(NPD).No.1876 of 2022

14.07.2022