



C.R.P.No.2988 of 2021
and C.M.P.No.21314 of 2021

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2022

CORAM

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

C.R.P.No.2988 of 2021

and

C.M.P.No.21314 of 2021

VVA Properties Pvt. Ltd.,
No.9, Crescent Street,
ABM Avenue, Chennai - 600 028

... Petitioner

Vs.

- 1.Ambiga
- 2.M.Shanbagam
- 3.Jesso
- 4.B.Thirunavukarasu
- 5.Sargunam
- 6.B.Babu
- 7.B.Vengatesh
- 8.Subathra
- 9.Mohana
- 10.S.Vijayakumar
- 11.S.Parthiban
- 12.Yuvaraj
- 13.S.Ravikumar
- 14.Umaputhiran
- 15.Prema
- 16.S.Iyyapan

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- 17.Santharubi
- 18.Jalendran
- 19.Ramanathan
- 20.T.Anandhi
- 21.P.Dhanasekar
- 22.Paramsivam
- 23.Nityakalyani
- 24.U.Kalaivani
- 25.D.Senthilraj
- 26.D.Soundarakani
- 27.D.Vijayakumari
- 28.D.Selvakumari
- 29.D.Perumaraj
- 30.D.Senthilraj
- 31.D.Thilakarajan
- 32.T.Ponmani
- 33.C.Suresh
- 34.S.R.Vasantha Kumar
- 35.J.Rajesh
- 36.J.Sathish
- 37.N.Vijay
- 38.N.Vinod
- 39.J.Sivakamivalli
- 40.K.Nagarajan
- 41.Ponsingh
- 42.Subhasri Reddy

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India to stay all further proceedings in O.S.No.338 of 2021 on the file of the District Court, Chengelpet.

For Petitioner	:	Mr.Srinath Sridevan
For RR1 to 21	:	Mr.B.Harikrishnan Mr.S.Rajendrakumar
For R41	:	No appearance



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ORDER

The revision petitioner is the 21st defendant in the suit in O.S.No.338 of 2021 on the file of the learned Principal District Judge, Chengalpet. The respondents 1 to 21 filed the suit for partition of the suit properties morefully described in the plaint as punja lands in S.Nos.231/385, 231/3E34, 231/3B1, 231/33A, 231/3B5, 231/3B7, 231/3B3, 231/3B6 and 231/3B2 of Perungudi Village, Kandanchavadi, Saidapet Taluk, Kancheepuram District, measuring 199 cents into seven equal shares and to allot one such share to the plaintiffs. They had further prayed for the following reliefs :

a) Declaration that the settlement deed dated 08.10.1985 registered as Doc.No.2666/1985, SRO. Adyar, executed by Rajalakshmi Ammal settling 52 cents of land, comprised in S.No.231/3, situated in Perungudi Village, to and in favour of the 1st defendant is *non est* not valid and not binding upon the plaintiffs.

b) Declaration that the sale deed dated 08.10.1985 registered as

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Doc.No.2667/1985, SRO Adyar, executed by Rajalakshmi Ammal conveying 50 cents of land, comprised in S.No.231/3, situated in Perungudi Village to and in favour of Anjalatchi is *non est* invalid and not binding upon the plaintiffs;

c) Declaration that the sale deed dated 08.10.1985 registered as Doc.No.2668/1985, SRO Adyar, executed by Rajalakshmi Ammal conveying 50 cents of land, comprised in S.No.231/3, situated in Perungudi Village to and in favour of the third defendant is *non est* invalid and not binding upon the plaintiffs;

d) Declaration that the sale deed dated 08.10.1985 registered as Doc.No.2665/1985, SRO Adyar, executed by Rajalakshmi Ammal conveying 50 cents of land, comprised in S.No.231/3 & 231/1, situated in Perungudi Village to and in favour of the Anjalatchi is *non est* invalid and not binding upon the plaintiffs;

e) Declaration that the sale deed dated 04.11.1998 registered as Doc.No.2240/1998, SRO Neelangari, executed by second defendant Nityakalayani conveying 25 cents of land, comprised in S.No.231/3, situated in Perungudi Village to and in favour of the



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sixth defendant D.Vijayakumari is *non est* invalid and not binding upon the plaintiffs;

f) Declaration that the sale deed dated 04.11.1998 registered as Doc.No.2241/1998, SRO Neelangarai, executed by second defendant Nityakalayani conveying 25 cents of land, comprised in S.No.231/3, situated in Perungudi Village to and in favour of the fifth defendant D.Soundarakani is *non est* invalid and not binding upon the plaintiffs;

g) Declaration that the sale deed dated 04.11.1998 registered as Doc.No.2242/1998, SRO Neelangarai, executed by first defendant Paramasivam conveying 26 cents of land, comprised in S.No.231/3, situated in Perungudi Village to and in favour of the sixth defendant D.Vijayakumari is *non est* invalid and not binding upon the plaintiffs;

h) Declaration that the sale deed dated 04.11.1998 registered as Doc.No.2243/1998, SRO Neelangarai, executed by first defendant Paramasivam conveying 26 cents of land, comprised in S.No.231/3, situated in Perungudi Village to and in favour of the seventh



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defendant D.Selvakumari is *non est* invalid and not binding upon the plaintiffs;

- i) Declaration that the sale deed dated 04.11.1998 registered as Doc.No.2244/1998, SRO Neelangarai, executed by Anjalatchi conveying 25 cents of land, comprised in S.No.231/3, situated in Perungudi Village to and in favour of the tenth defendant T.Ponumani is *non est* invalid and not binding upon the plaintiffs;
- j) Declaration that the sale deed dated 04.11.1998 registered as Doc.No.2245/1998, SRO Neelangarai, executed by Anjalatchi conveying 25 cents of land, comprised in S.No.231/3, situated in Perungudi Village to and in favour of the fourth defendant D.Senthilraj is *non est* invalid and not binding upon the plaintiffs;
- k) Declaration that the sale deed dated 04.11.1998 registered as Doc.No.2246/1998, SRO Neelangarai, executed by Anjalatchi conveying 25 cents of land, comprised in S.No.231/3, situated in Perungudi Village to and in favour of the tenth defendant T.Ponnumani is *non est* invalid and not binding upon the plaintiffs;
- l) Declaration that the sale deed dated 04.11.1998 registered as



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Doc.No.2246/1998, SRO Neelangarai, executed by third defendant Kalaivani, conveying 25 cents of land, comprised in S.No.231/3, situated in Perungudi Village to and in favour of the ninth defendant Thilakarajan is *non est* invalid and not binding upon the plaintiffs;

m) Declaration that the sale deed dated 07.11.2001 registered as Doc.No.2905/2001, SRO Neelangarai, executed by twelfth defendant Ponumani, conveying 25 cents of land, comprised in S.No.231/3, New S.No.231/3B4, situated in Perungudi Village to and in favour of the eleventh defendant C.Suresh, twelfth defendant Vasanthakumar, thirteenth defendant Rajesh, fourteenth defendant Satish, fifteenth defendant Vijay and the sixteenth defendant Vinodh is *non est* invalid and not binding upon the plaintiffs;

n) Declaration that the sale deed dated 07.11.2001 registered as Doc.No.2906/2001, SRO Neelangarai, executed by eleventh defendant D.Thilakarajan, conveying 47 cents of land, comprised in S.No.231/3, New S.No.231/3B1 & 231/3A, situated in Perungudi Village to and in favour of the eleventh defendant C.Suresh, twelfth defendant Vasanthakumar, thirteenth defendant Rajesh, fourteenth



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defendant Satish, fifteenth defendant Vijay and the sixteenth defendant Vinodh is *non est* invalid and not binding upon the plaintiffs;

o) Declaration that the sale deed dated 07.11.2001 registered as Doc.No.2907/2001, SRO Neelangarai, executed by fourth defendant D.Senthilraj, conveying 25 cents of land, comprised in S.No.231/3, New S.No.231/3B5, situated in Perungudi Village to and in favour of the eleventh defendant C.Suresh, twelfth defendant Vasanthakumar, thirteenth defendant Rajesh, fourteenth defendant Satish, fifteenth defendant Vijay and the sixteenth defendant Vinodh is *non est* invalid and not binding upon the plaintiffs;

p) Declaration that the sale deed dated 07.11.2001 registered as Doc.No.2908/2001, SRO Neelangarai, executed by seventh defendant D.Selvakumari through her POA Agent D.Senthilraj, conveying 26 cents of land, comprised in S.No.231/3, New S.No.231/3B7, situated in Perungudi Village to and in favour of the eleventh defendant C.Suresh, twelfth defendant Vasanthakumar, thirteenth defendant Rajesh, fourteenth defendant Satish, fifteenth



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defendant Vijay and the sixteenth defendant Vinodh is *non est* invalid and not binding upon the plaintiffs;

q) Declaration that the sale deed dated 07.11.2001 registered as Doc.No.2909/2001, SRO Neelangarai, executed by fifth defendant D.Soundarakani through her POA Agent D.Senthilraj, conveying 25 cents of land, comprised in S.No.231/3, New S.No.231/3B3, situated in Perungudi Village to and in favour of the eleventh defendant C.Suresh, twelfth defendant Vasanthakumar, thirteenth defendant Rajesh, fourteenth defendant Satish, fifteenth defendant Vijay and the sixteenth defendant Vinodh is *non est* invalid and not binding upon the plaintiffs;

r) Declaration that the sale deed dated 07.11.2001 registered as Doc.No.2910/2001, SRO Neelangarai, executed by eighth defendant D.Perumalraj through her POA Agent D.Senthilraj, conveying 26 cents of land, comprised in S.No.231/3, New S.No.231/3B6, situated in Perungudi Village to and in favour of the eleventh defendant C.Suresh, twelfth defendant Vasanthakumar, thirteenth defendant Rajesh, fourteenth defendant Satish, fifteenth



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defendant Vijay and the sixteenth defendant Vinodh is *non est* invalid and not binding upon the plaintiffs;

s) Declaration that the sale deed dated 07.11.2001 registered as Doc.No.2911/2001, SRO Neelangarai, executed by sixth defendant D.Vijayakumari through her POA Agent D.Senthilraj, conveying 25 cents of land, comprised in S.No.231/3, New S.No.231/3B2, situated in Perungudi Village to and in favour of the eleventh defendant C.Suresh, twelfth defendant Vasanthakumar, thirteenth defendant Rajesh, fourteenth defendant Satish, fifteenth defendant Vijay and the sixteenth defendant Vinodh is *non est* invalid and not binding upon the plaintiffs;

t) Declaration that the sale deed dated 07.12.2000 registered as Doc.No.4015/2004, SRO Neelangarai, executed by ninth defendant D.Thilakarajan conveying 3 cents of land, comprised in S.No.231/3, New S.No.231/3BA, 3BA, 3A, 2B5, 3B7, 3B3, 3B6, B2 situated in Perungudi Village to and in favour of the 20th defendant Subhasri Reddy is *non est* invalid and not binding upon the plaintiffs;



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u) Declaration that the sale deed dated 08.09.2006 registered as Doc.No.5344/2006, SRO Neelangarai, executed by 15th defendant Vijay conveying 1/6th undivided share in 199 cents of land comprised in S.No.231/3, New S.No.231/3B4, 3B1, 3A, 2B5, 3B7, 3B3, 3B6 B2 situated in Perungudi Village to and in favour of the 19th defendant Ponsingh is *non est* invalid and not binding upon the plaintiffs;

v) Declaration that the sale deed dated 04.05.2007 registered as Doc.No.2792/2007, SRO Neelangarai, executed by 19th defendant Ponsingh conveying 1/6th undivided share in land measuring 199 cents of land comprised in S.No.231/3, New S.No.231/3B4, 3B1, 3A, 2B5, 3B7, 3B3, 3B6, B2 situated in Perungudi Village to and in favour of the 20th defendant Subhasri Reddy is *non est* invalid and not binding upon the plaintiffs;

w) Declaration that the sale deed dated 15.11.2007 registered as



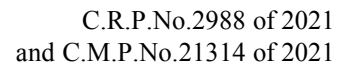
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Doc.No.5755/2007, SRO Neelangarai, executed by 20th defendant Subhasri Reddy conveying 1/6th undivided share in land measuring 199 cents of land comprised in S.No.231/3, New S.No.231/3B4, 3B1, 3A, 2B5, 3B7, 3B3, 3B6, B2 situated in Perungudi Village to and in favour of the 17th defendant Sivagamivalli is *non est* invalid and not binding upon the plaintiffs;

- x) Declaration that the sale deed dated 24.04.2009 registered as Doc.No.1250/2009, SRO Neelangarai, executed by 11th defendant C.Suresh, 12th defendant Vasanthakumar, 13th defendant Rajesh, 14th defendant Satish, 15th defendant Vijay, 16th defendant Vinodh and 17th defendant Sivagamivalli conveying 199 cents of land comprised in S.No.231/3, New S.No.231/3B4, 3B1, 3A, 2B5, 3B7, 3B3, 3B6, B2 situated in Perungudi Village to and in favour of the 21st defendant VVA Properties Pvt. Ltd., is *non est* invalid and not binding upon the plaintiffs;

The suit was filed on 22.07.2021.



3.The case of the plaintiffs in brief :

The diagram illustrates a family lineage. At the top is the name "Anjalakshi". A vertical line descends from her, connecting to a horizontal line. This horizontal line has two vertical branches leading down to "Sachidanandam" on the left and "Rajeshwari" on the right. Below "Rajeshwari" is an equals sign "=", which connects to another vertical line descending to the name "Sundaramoorthy". From "Sundaramoorthy", a long horizontal line extends across the bottom of the diagram. Eleven short vertical lines branch downwards from this horizontal line, each pointing to one of the following names: Kalavani, Nithyakalyani, Anjalakshi, Balasubramani, Paramasivam, Sulochana, Dhyaneswari, Ambika, Shenbagavathy, Jesso, and Vasantha. The names are arranged horizontally, with "Vasantha" positioned below "Balasubramani" and "Mohana Ramanathan" positioned below "Paramasivam".

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graph TD
    Anjalakshi --> Sachidanandam
    Anjalakshi --> Rajeshwari
    Rajeshwari == Sundaramoorthy
    Sundaramoorthy --- Line[ ]
    Line --- Kalavani
    Line --- Nithyakalyani
    Line --- Anjalakshi2[Anjalakshi]
    Line --- Balasubramani
    Line --- Vasantha
    Line --- Paramasivam
    Line --- Mohana
    Line --- Ramanathan
    Line --- Sulochana
    Line --- Dhyaneswari
    Line --- Ambika
    Line --- Shenbagavathy
    Line --- Jesso

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Thirunavukkarasu	Vijayakumar Anandhi
Sargunam	Parthiban Dhanasekar
Babu	Yuvraj
Venkatesh	Ravikumar
Subhadra	Umaputhran
	Prema
	Ayyappan
	Shantharupi
	Jalendran

Rajeswari Ammal died intestate on 20.01.2002 leaving behind the plaintiffs and the defendants 1 to 20 as her legal heirs. According to the plaintiffs, the suit properties are not the self acquired properties of Rajeswari Ammal and that she did not have any right of alienation. The plaintiffs as her legal heirs have a share in the suit properties. However, Rajeswari Ammal settled 52 cents of land in S.No.231/1 in favour of her son Paramasivam through a registered settlement deed dated 08.10.1985 and sold the remaining extent of land on the same date i.e. 08.10.1995 in favour of the defendants 2 to 4 through three sale deeds. Those alienations were made under coercion and undue influence since Rajeswari Ammal was living with her son Paramasivam during the relevant time. They in turn sold the suit property to the defendants 5 to 9 through seven sale deeds



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dated 04.11.1998. Thereafter, defendants 5 to 9 sold the suit properties in favour of defendants 10 to 15 through seven registered sale deeds dated 05.07.2001 who in turn along with defendants 16 & 17 sold to 18th defendant through a registered sale deed dated 24.04.2009. Two suits in O.S.No.45 of 2005 and O.S.No.58 of 2005 in respect of the suit properties were filed before the District Court, Chengelpet. The plaintiffs were not parties to the suit. While the suit in O.S.No.45 of 2005 was decreed as the defendants in the suit submitted to decree, the suit in O.S.No.58 of 2005 was dismissed as withdrawn. The suit properties are joint family properties and therefore, the settlement deed and sale deeds all dated 08.10.1985 executed by Rajeswari Ammal are null and void. Consequently, the subsequent sale deeds are also null and void.

With these allegations, the plaintiffs had filed the suit. The 21st defendant now filed the present CRP under Article 227 of the Constitution of India seeking for striking off the plaint in O.S. No.338/2021 on the grounds that the suit is an abuse of process of law and also barred by



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limitation.

4.Heard Mr.Srinath Sridevan, learned counsel appearing for the revision petitioner and Mr.B.Harikrishnan & Mr.S.Rajendrakumar learned counsel appearing for the respondents 1 to 21.

5.Mr.Srinath Sridevan, learned counsel for the revision petitioner contended that filing of the suit in O.S.No.338 of 2021 is clearly an abuse of process of Court on the following counts :

- i. The suit properties are not joint family properties. Admittedly, they belonged to Rajeswari Ammal who executed a settlement deed dated 08.10.1985 in favour of her son Paramasivam in respect of 52 cents in S.No.231/1 and 3 sale deeds in favour of defendants 2 to 4.
- ii. The plaintiffs cannot seek for cancellation of settlement deed and sale deed executed by Rajeswari Ammal way back in the year 1985 and the suit is hopelessly barred by limitation.
- iii. Moreover, when a contract is stated to be voidable by reason of coercion, misrepresentation, the details thereof ought to be spelt out



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clearly as to how the coercion and misrepresentation were made out.

Since there are no pleadings in this regard the suit cannot be sustained.

- iv. The contention of the plaintiffs in para 7 of the plaint that they were not parties to the suit in O.S.No.58 of 2005 is totally false since the plaintiffs herein were shown as defendants 1, 3, 4 ,5, 25 to 32. The said suit was filed by one Ponsingh (D-19 in the present suit) for specific performance of contract allegedly executed by the plaintiffs and the defendants herein (in the instant suit) and the suit was dismissed as withdrawn on 27.06.2006.
- v. The suit in O.S.No.45 of 2005 was filed by D-11 to D-16 in the present suit for declaration of their title to the suit properties against the defendants 4 to 10 & 19 in the present suit. The said suit was decreed as the defendants submitted to decree.
- vi. The filing of the present suit is the 4th round of litigation in respect of the very same suit property. He drew the attention of this court to the following rounds of litigation.

Litigation No.1.



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One Premananda and one Baskaran attempted to interfere with the possession of Anjalakshi Ammal and therefore Anjalakshi Ammal was constrained to file a suit in O.S. No.260/1968 before the learned District Munsif, Poonamallee, for declaration of her title and for a permanent injunction in respect of the property in Survey No.231 measuring 2 acres and 45 cents in Perungudi Village (present suit property but measuring 1 acre and 99 cents). The said suit was decreed vide a decree and judgment dated 27.02.1971 in favour of Anjalakshi Ammal. The matter went upto the High Court and in the Second Appeal in S.A. No.1256/1973, this Court upheld the findings of the learned District Munsif vide its decree and judgment dated 05.10.1977. Thus Anjalakshi Ammal was declared as title holder of the suit properties.

Litigation No2.

Thereafter, the subsequent purchasers of the suit property filed C.S. No.717/2004 for declaration of their title to the suit property and for a permanent injunction against daughter of Anjalakshi Ammal and one Ponsingh (D19 herein) and others. The said plaint was



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returned for representation before the Principal District Judge at Chengalpet and accordingly the suit was renumbered as O.S. No.45/2005.

- a) Ponsingh also filed a suit for specific performance in O.S. No.58/2005 before the Principal District Court, Chengalpet against Rajeswariammal as well as the subsequent purchasers. Both the suits were disposed of on 27.06.2006, in which the sale deeds and the settlement deeds dated 08.10.1985 executed by Rajeswariammal to and in favour of S.Paramasivam, B. Anjalakshi, S. Nithykalyani and U.Kalaivani were upheld and the suit for specific performance filed by Ponsingh in O.S. No.58/2005 was dismissed as withdrawn.
- b) The present plaintiffs and the defendants 1 to 18 were all parties to the above suit.

Litigation No.3

After the death of Anjalakshi Ammal, Pramananda and his legal heirs filed a suit in O.S. No.403/1984 against Rajeswariammal,



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M.Sivaprakasam, Nithyakalyani, Anjalakshi (junior), Paramasivam and Kalaivani for a bare injunction before the District Munsif Court, Poonamallee (renumbered as O.S. No.85/1997 on the file of the District Munsif, Alandur). The said suit was dismissed by the learned District Munsif vide his decree and judgment dated 29.10.1999. The matter went upto High Court and the Second Appeal in S.A. No.443/2017 filed by Pramananda group was dismissed by this Court on 22.10.2021.

Litigation No.4

Ambika, Balasubramani, Sulochana and Dyaneshwari (children of Rajeswari Ammal) with their sons and daughters have filed the present suit in O.S. No.338/2021.

(vii). According to the learned counsel for the revision petitioner the cause of action paragraph has also been cleverly drafted to avoid the period of limitation. The plaintiffs were in know of the settlement deed and the sale deeds dated 08.10.1985 even at the time of filing of the suit in O.S. No.45/2005 and O.S. No.58/2005



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and they did not take steps to set aside the settlement deed and sale deeds within the period of limitation and therefore the suit is hopelessly barred by limitation.

viii. He relied on the decision in ***K.K. Modi vs. K.N. Modi and ors*** reported in ***(1998) 3 SCC 573*** and contended that one of the examples for abuse of the process of Court is re-litigation and that the parties should not be permitted to re-litigate the same issue which has already been tried and decided earlier against them. His further contention is that the re-agitation may or may not be barred as *res judicata*, but, if the same issue is sought to be re-agitated, it amounts to an abuse of the process of law. He would further contend that this decision was followed by a Single Judge of this Court in the case of ***Maria Soosai and another vs. Esakkiammal*** reported in ***1999 (1) LW 727*** wherein it was held that the court will prevent improper use of its machinery and in a proper case summarily prevent its machinery from being used as a means of vexatious litigation.

ix. The plaintiffs in the instant suit had merely averred that late



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Rajeswariammal executed the settlement deed and sale deeds dated 08.10.1985 under coercion and undue influence without explaining as to how & when she was coerced to execute those documents. Reliance was also placed upon the decision in **CS. Ramasamy vs. VK. Senthil & Ors** in Civil Appeal No.500 of 2022 (SC) and contended that even the averments and allegations with regard to the knowledge of the plaintiffs about the execution of the sale deeds and settlement deed executed by Rajeswariammal and the subsequent selling of the properties are too vague in the plaint. In fact, nowhere in the plaint it is stated that on which date the plaintiffs came to know about the execution of the documents by Rajeswariammal and how they had the knowledge that the document was obtained under coercion or misrepresentation. He would therefore contend that mere statement in the plaint that Rajeswariammal executed the settlement deed and sale deeds dated 08.10.1985 under coercion and misrepresentation is not enough and the allegation of coercion and misrepresentation must be specifically elaborated in the plaint. Merely by using the word



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coercion and misrepresentation would not get the suits within the bounds of limitation which is otherwise barred by limitation.

6. Per contra, the learned counsel appearing for the respondents 1 to 12 would contend that the present suit was filed by the legal heirs of late Rajeswari Ammal and that the alienation made by Rajeswari Ammal to and in favour of one of her sons Paramasivam and his close relatives on 08.10.1995 was questioned in the suit. According to him, the plaintiffs are the sharers and it is specifically pleaded in the plaint that Rajeswariammal was coerced to execute the settlement deed and sale deeds in favour of one of her sons alone leaving the other sharers. It is his further contention that the suit is not barred by limitation. However, the issue of limitation is a mixed question of law and facts and only after full fledged trial, the same can be considered. He also relied on the decision in ***Waryam Singh and Ors vs. Amarnath and Ords in Civil Appeal No.64 of 1953***, wherein the Apex Court had held that the power of superintendence conferred by Article 227 should be exercised sparingly and only in appropriate cases in order to keep the subordinate courts within the bounds of their authority



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and not for correcting mere errors. Reliance was also placed upon the decision in *Vidya Devi (dead by Lrs) vs. Prem Prakash and Ors reported in AIR 1995 SC 1789* by the counsel for the plaintiffs and contended that since the suit in O.S. 338/2021 was also filed for partition there is no period of limitation because the partition is the question attached to the property and there is always a running cause of action for seeking partition by one of the co-sharers if and when he decides not to not keep his share joint with other co sharers.

7. Having gone through the rival submissions on both sides, it is clear that it is admitted by both parties that the suit properties were purchased by late Sachidanandam, son of Anjalakshi Ammal vide a registered sale deed dated 16.06.1929. The said Sachitanandam died as a bachelor during 1939 leaving behind his mother Anjalakshi Ammal as his sole Class-I legal heir. After the death of Anjalakshi Ammal on 05.06.1979, the entire suit properties devolved on her only daughter Rajeswari Ammal by way of succession. Rajeswari Ammal executed a



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settlement deed dated 08.10.1985 in favour of her son Paramasivam in respect of 52 cents of land in Survey No.231/1 and also three sale deeds dated 08.10.1985 in favour of Nithyakalyani, Kalaivani and Anjalatchi (junior) in respect of the remaining 1 acre and 50 cents. Thereafter, they all executed sale deeds dated 04.11.1998 in favour of various persons who in turn sold the same by way of registered sale deed dated 05.07.2001 to one C. Suresh and others. The present revision petitioner purchased the entire extent of the suit property from the defendants 10 to 17 through a sale deed dated 24.04.2009. The plaintiffs have sought for declaration of all the sale deeds as null and void and also for partition of the suit properties into 7 equal shares and to allot one such share to them.

8. One of the contentions of the plaintiffs is that the suit properties are joint family properties. It is admitted in the plaint that the suit properties were purchased by late Sachidanandam through a registered sale deed dated 16.06.1919 and that he died as a bachelor during the year 1939 leaving behind his mother Anjalakshi Ammal as his sole legal heir. Anjalakshi Ammal inherited the property from her son and she died on



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05.06.1979, leaving behind her only daughter Rajeswari Ammal who succeeded to the estate. Therefore the suit properties absolutely belonged to Rajeswari Ammal. The suit properties, therefore, cannot be construed as joint family properties by any stretch of imagination. Therefore, the plaintiffs and the defendants 1 to 20 cannot claim any right over the suit properties by birth and the suit properties are not joint family properties/ancestral properties.

9. Rajeswari Ammal during her life time executed a settlement deed in favour of one of her sons Paramasivam on 08.10.1985. On the same day she executed 3 sale deeds in favour of B. Anjalatchi (grand daughter of Rajeswari Ammal) and S. Nithya Kalyani and U. Kalaivani, who are all related to the wife of Paramasivam. The contention of the plaintiffs is that late Rajeswari Ammal was coerced to execute the settlement deed and sale deeds all dated 08.10.1985. It is pertinent to point out that the plaintiffs have not elaborated in the plaint as to how late



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Rajeswari Ammal was coerced to execute these documents. There is absolutely no pleading in this regard in the plaint and as per the decision in **CS. Ramasamy vs. VK. Senthil & Ors** (cited supra), a mere statement in the plaint that Rajeswari Ammal executed the settlement and sale deeds under coercion and misrepresentation is not enough. It is also seen that merely by using the words " coercion and misrepresentation", the plaintiffs want to save the period of limitation.

10. It is seen from the suit in O.S. No.58/2005, the plaintiffs herein were shown as defendants 1,3,4,5 and 25 to 32 and that the said suit was filed by one Ponsingh (D19 in the present suit) for specific performance of contract allegedly executed by the plaintiffs and the defendants herein. In fact, the plaintiffs and the defendants 1 to 20 were made as parties to the suit. However, in O.S. No.58/2005 in paragraph No. 20 and 24 it is specifically averred as follows:

"20. The plaintiff came to know that the said Rajeswari Ammal created a settlement deed dated 23.09.1985 in favour of her son S. Paramasivam in respect of 52 cents out of the suit property. The value of the settlement deed is Rs.46,000/-. The plaintiff further submits that in addition to



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that she has also executed a sale deed dated 28.09.1985 in favour of B. Anjalakshi her daughter. She has also executed sale deed dated 28.09.1985 in favour of Nithyakalyai. She also executed another sale deed dated 28.09.1985 in favour of Kalaivani. The sale consideration referred in the said sale deeds are Rs.45,000/- in each sale deed.

..

24. The plaintiff submits that even though sale deeds were executed by Nithyakalyani and others in favour of Vijayakumar and others dated 04.11.1998, the plaintiff alone is in possession and enjoyment of the property. Even after the sale deeds dated 29.10.1999 the said Sivaprakasam has made endorsement in the agreement dated 20.01.1984. In order to cast cloud upon the title the said Vijayakumari and others have created the sale deeds.

The defendants (including the present plaintiffs) in the suit entered appearance through a counsel. Subsequently the suit was dismissed as withdrawn on 27.06.2006.

11. In the suit in O.S. No.45/05 filed before the same Court, the defendants in the suit submitted to decree. In fact, the said suit was filed by C. Suresh and others, who purchased the suit properties through



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registered sale deeds dated 05.07.2001 from their vendors, who in turn purchased the suit properties from Nithya Kalyani, Paramasivam, Anjalakshi (junior) and Kalaivani through registered sale deeds date 04.11.1998. The said suit was filed for declaration of the title of the plaintiffs in the suit properties and since the defendants submitted to decree, a declaratory decree was passed in favour of the plaintiffs. The said suit was disposed of on the same day when the suit in O.S. No.58/2005 was dismissed as withdrawn. Therefore, it is clear the plaintiffs and the defendants 1 to 20 knew the facts of both the suits. They did not take immediate steps to get themselves impleaded as parties to the suit in O.S. No.45/05. It is also relevant to point out that the plaintiffs were in know of the execution of settlement deed dated 08.10.1985 and sale deeds dated 08.10.1985 and the subsequent sale deeds dated 04.11.1998 and 05.07.2001 even in the year 2005. They did not file a suit to set aside all these documents within the period of 3 years from the date of knowledge as per Article 59 of the Limitation Act. The plaintiffs have not specifically stated in their plaint as to when they came to know about the execution of the abovesaid documents. The allegations



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in the plaint are very vague in this regard and the plaintiffs cannot be permitted to challenge these documents after a period of nearly 35 years. As rightly pointed out by the learned counsel for the revision petitioner, the plaintiffs have cleverly drafted the plaint by using the words "coercion and misrepresentation" and attempted to bring the suits within the period of limitation. The plaintiffs can never be permitted to bring the suits within the period of limitation by cleverly drafting the plaint, which is otherwise barred by limitation. Thus the suit is hopelessly barred by limitation.

12. The contention of the learned counsel for the respondents that the period of limitation is a mixed question of law and facts and that only after full fledged trial the same can be adjudicated, cannot be accepted for the simple reason that even a bare perusal of the plaint and the earlier rounds of litigation clearly shows that the plaintiffs were in know of the execution of all these documents which they now sought to be declared as null and void.

13. The suit filed by the plaintiffs is also an abuse of process of



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court. This is because the present suit, as rightly pointed out by the learned counsel for the revision petitioner, is the 4th round of litigation. Late Anjalakshi Ammal (senior) even during the year 1968 filed a suit in O.S. No.260/1968 before the District Munsif, Poonamallee for declaration of her title and for a consequential relief of permanent injunction against one Pramanandam and one Baskaran and after full contest, the suit was decreed in favour of Anjalakshi Ammal. As already observed the matter went upto High Court and this Court vide decree and judgment dated 05.10.1977 upheld the findings of the trial court and decreed the suit in favour of the plaintiff. Thus Anjalakshi Ammal was declared to be the owner of the suit properties. Thereafter, the same Pramanandam along with his sons and daughters filed a suit in O.S.No.85/1997 against Rajeswari Ammal and Sivaprakasam (Son and daughter of Anjalakshi Ammal) and against Nithyakalyani, Anjalakshi (junior), Paramasivam and Kalaivani. After full contest, the said suit was dismissed. The matter again went upto High Court and the Second Appeal in S.A. No.443/2017 was dismissed by this Court on 22.10.2021. All these decisions were rendered after full contest and after hearing both the parties to the suit.



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14. Subsequently O.S. No.45/2005 and O.S. No.58/2005 came to be filed in which the plaintiffs and the defendants 1 to 20 were made as parties to the suit. In the decision in ***K.K. Modi vs. K.N. Modi and ors*** (cited supra) it has been held thus:

"43.The Supreme Court Practice 1995 published by Sweet & Maxwell in paragraphs 18/19/33 (p. 344) explains the phrase "abuse of the process of the court" thus:

"This term connotes that the process of the court must be used bona fide and properly and must not be abused. The court will prevent improper use of its machinery and will in a proper case, summarily prevent its machinery from being used as a means of vexation and oppression in the process of litigation. ... The categories of conduct rendering a claim frivolous, vexatious or an abuse of process are not closed but depend on all the relevant circumstances. And for this purpose considerations of public policy and the interests of justice may be very material."

44. One of the examples cited as an abuse of the process of the court is relitigation. It is an abuse of the process of the court and contrary to justice and public policy for a party to relitigate the same issue which has already been tried and decided earlier



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against him. The reagitation may or may not be barred as res judicata. But if the same issue is sought to be reagitated, it also amounts to an abuse of the process of the court. A proceeding being filed for a collateral purpose, or a spurious claim being made in litigation may also in a given set of facts amount to an abuse of the process of the court. Frivolous or vexatious proceedings may also amount to an abuse of the process of the court especially where the proceedings are absolutely groundless. The court then has the power to stop such proceedings summarily and prevent the time of the public and the court from being wasted. Undoubtedly, it is a matter of the court's discretion whether such proceedings should be stopped or not; and this discretion has to be exercised with circumspection. It is a jurisdiction which should be sparingly exercised, and exercised only in special cases. The court should also be satisfied that there is no chance of the suit succeeding."

15. In the plaint the plaintiffs had falsely stated that they are not parties to the suit in O.S. No.58/2005. This would also amount to abuse of process of court.

16. The learned counsel for the respondents would contend that since there is no period of limitation for filing of a partition suit, the co-



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sharers can always bring a suit when they feel that it is not possible for them to have the property in common/jointly with other co sharer. The suit properties are not joint family properties and the plaintiffs are not co-parceners since the properties belonged to a Hindu female, namely, Rajeswari Ammal. Hence the decision in *Vidya Devi (dead by Lrs) vs. Prem Prakash and Ors* in *Civil Appeal No.974 of 1980 decided on 10.05.1995*, would not apply to the facts of the present case. Moreover, it seems that the suit property is only 1 acre and 99 cents and the total extent of the property acquired by late Anjalakshi Ammal and on her death by Rajeswari Ammal is 2 acres and 45 cents in the same survey numbers. The plaintiffs have not included the remaining extent of land. Nothing is averred in the plaint with regard to the said remaining area.

17. It is true that the power of superintendence conferred by Article 227 should be exercised sparingly and only in appropriate cases in order to keep the subordinate courts within the bounds of their authority and not for correcting mere errors. In the instant case a bare perusal of the plaint clearly shows that the suit is not only barred by limitation but also is



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an abuse of process of law. In the circumstances, it would not be proper on the part of this Court to direct the trial court to proceed with the case.

18. In the result,

1) the Civil Revision Petition is allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

2) the plaint in O.S.No.338 of 2021 on the file of the District Court, Chengelpet, is struck off.

02.11.2022

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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R. HEMALATHA, J.
bga

To

- 1.The District Court, Chengelpet.
- 2.The Section Officer, VR Section, High Court, Madras.

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02.11.2022