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C.R.P.No.3393 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.3393 of 2022
and
C.M.P.No.18036 of 2022

1.Kamalakkannan

2.Dhanasekar

3.Umarani

... Petitioners

VS

1.Ramachandramoorthy

2.Dharmalingam

3.Rajaathi

4.Kumutha

5.Kalaiyarasi

6.Sampath Kumar

7.Kalyani

8.Pushparani

... Respondents



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Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order passed in I.A.No.211 of 2020 in O.S.No.210 of 2019 dated 09.09.2022 by the learned Additional Subordinate Judge, Dharmapuri by allowing the above CRP.

For Petitioners : Mr.D.Murthy

ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below dismissing the petition to reject the plaint filed by the revision petitioners.

2. The respondents 1 and 2 filed a suit for partition claiming that the suit property is ancestral property belong to their family. They also produced revenue documents which stands in the name of Sundararajan, Peruma, Munusamy. As per the plaint averments, the suit property is the ancestral property of the family of Dasi Gounder.

3. The petitioners/defendants 1 to 3 herein filed a petition to reject the plaint on the ground that the suit property is the self-acquired property of their



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father viz., Kannu @ Sundararajan. They also raised a plea that the Dasi Gounder died in the year 1964 and the suit has been laid by the 1st and 2nd respondents after 51 years and therefore, the suit is barred by limitation.

4. The Court below on consideration of the plaint averments and plaint documents declined to accept the points raised by the revision petitioners and dismissed the petition to reject the plaint and aggrieved by the same, the petitioners are before this Court.

5. The learned counsel for the petitioners submitted that the said Dasi Gounder died in the year 1964 itself and the suit has been laid by the 1st and 2nd respondents, after a lapse of nearly 51 years. Therefore, the suit is hopelessly barred by limitation. The learned counsel for the petitioners also wanted to rely on certain revenue documents which according to them stands in the name of the father of the petitioners viz., Kannu @ Sundararajan, in order to substantiate the plea of respondents that suit properties are self earned properties of said Kannu @ Sundararajan.



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6. It is settled law that while considering the petition for rejection of plaint the Court is concerned only the averments found in the plaint and plaint documents. It is not open to the Court to look into the documents produced by the defendants. Whether the suit property is the ancestral property of the family or the self-acquired property of the father of the petitioners viz., Sundararajan is a disputed question of fact which has to be gone into in a full fledged trial.

7. As far as the contention of the learned counsel for the petitioners that the suit is barred by limitation is concerned, the plea of ouster has to be specifically pleaded and meticulously proved in a full fledged trial and the same cannot be considered in a petition for rejection of plaint. Therefore, I am unable to accept both the contentions raised by the learned counsel for the petitioners. Hence, there is no illegality or irregularity in the order passed by the Court below.

8. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

9. The learned counsel for the petitioners made a request to this Court to



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give a direction to the Court below to dispose of the suit within a time frame.

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Having regard to the fact that the suit is of the year 2019 and the relief sought for is partition. This Court is inclined to issue direction to the Additional Subordinate Judge, Dharmapuri, to dispose of the suit in O.S.No.210 of 2019 within a period of nine months from the date of receipt of a copy of this order.

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Index : Yes / No

Speaking Order : Yes / No

dm

To

The Additional Subordinate Judge,
Dharmapuri.



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S.SOUNTHAR, J.

dm

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