



CRP (PD).No.675 of 2017
and CMP. No.3416 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.03.2022

CORAM

THE HONOURABLE Mr.JUSTICE C.V.KARTHIKEYAN

CRP (PD).No.675 of 2017
and
CMP. No.3416 of 2017

L.Venugopal

... Petitioner

Vs

1. V.Durai Ammal
2. V.Gandhimathi
3. The District Collector,
Vellore District, Vellore.
4. The Tahsildar,
Taluk Office, Ambur.
5. The Sub-Registrar,
Sub Registrar Office, Ambur.

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against Order and decreetal Order in I.A. No.297 of 2016 in O.S.No.27 of 2012 on the file of Principal District Munsif, Ambur, dated 27.01.2017.

For Petitioner	: Ms.V.Srimathi
For Respondents	: Mr.L.K.Manjunath for R1 and R2
	Dr.S.Suriya
	AGP for R3 to R5



WEB COPY



*CRP (PD).No.675 of 2017
and CMP. No.3416 of 2017*

ORDER

Heard the learned counsel for the parties.

2. This Revision stands dismissed. I will give the reasons below.

3. The revision petitioner is the first defendant in O.S.No.27 of 2012 and is the husband of the first plaintiff and father of the second plaintiff. The revision petitioner/husband/first defendant married the first plaintiff in the year 1984. Thereafter, in the year 1985, the second plaintiff was born. Between the years 1984 and 2012, nearly 37 years had passed before the institution of the suit. The first defendant had executed a settlement deed with respect to a particular property in favour of the revision petitioner/first plaintiff/wife in the year 2001. Thereafter, the said settlement deed appears to have been cancelled in the year 2011. This necessitated institution of the suit stating that such cancellation of the settlement deed is not valid and not binding and not lawful.



CRP (PD).No.675 of 2017
and CMP. No.3416 of 2017

WEB COPY

4. A reading of the plaint shows that the first plaintiff married the first defendant on 15.02.1984 and the second plaintiff was born on 11.05.1985. Thereafter, it has been very specifically stated that the first defendant, who appears to have worked in the Army, had come back home and started cohabiting with two separate ladies as wives and totally rejected the status of the first plaintiff or even acknowledged her.

5. He had then filed an application, pending the suit, in I.A.No.218 of 2013, which was dismissed by the Principal District Munsif Court, Ambur at Vellore District on 16.07.2013 necessitating, filing of CRP (PD) No.3097 of 2013.

6. The reliefs sought in the aforementioned I.A.No.218 of 2013 were as follows:-

“seeking a direction to the 1st plaintiff to appear before the court in order to ascertain the fact that she is an unsound mind person which is essential to determine the legality of the case, whether triable or not.”



CRP (PD).No.675 of 2017
and CMP. No.3416 of 2017

WEB COPY

7. That application was dismissed by the Principal District Munsif, Ambur, by order dated 16.07.2013. The first defendant then filed CRP(PD).No.3097 of 2013.

8. A learned Single Judge of this Court while examining the said Revision petition, had held as follows:-

“9. As already stated, in the application in I.A.218/2013, the direction sought for to summon and appear the 1st plaintiff before the court was not for giving evidence but to find out the mental fitness of the 1st plaintiff and for such practice of calling the opposite party could not be entertained and hence, the trial court has rightly dismissed the said I.A. In view of the foregoing discussions, this court finds that the order passed in I.A.No.218 of 2013 is legally sustainable and in view of the absence of any document to support the averment in I.A.No.218 of 2013 that 1st plaintiff is mentally unsound person, the arguments put forth on the side of learned counsel for revision petitioner does not hold good. It is also pertinent to point out herein that the trial court has given a finding that 2nd plaintiff has vested right towards the enjoyment of property and in such circumstances, I am of the view that during the life time of the mother/1st plaintiff, she has every right to protect her interest and as such, 1st plaintiff filed suit in



CRP (PD).No.675 of 2017
and CMP. No.3416 of 2017

WEB COPY

O.S.No.27 of 2012 to pursue her case.

10. As far as the contention of the revision petitioner that only to ascertain whether 1st plaintiff is a mentally sound person or not, a direction is sought for appearance of 1st plaintiff is concerned, the normal practice is seeking permission for appointment of guardian on behalf of the parties who were of unsound mind, but in the present case, except the averment in the written statement, no piece of paper or document is given to substantiate the said factor and such document has not been filed before the trial court or before this court and even in such circumstances of mentally unsound person having filed the suit, the revision petitioner has to invoke the procedure under Mental Health Act and hence, the application under Section 115 of C.P.C., to summon the 1st plaintiff before the trial court sans merit and this court do not find any reason to entertain the present revision petition.

In the result, this Civil Revision Petition is dismissed with costs of Rs.2000/- to the Chief Minister's Relief Fund. Consequently, connected MP is closed.”

9. The Revision Petition was dismissed with costs of Rs.2,000/-.

10. Not satisfied with that, the first defendant appears to have



CRP (PD).No.675 of 2017
and CMP. No.3416 of 2017

WEB COPY

again filed I.A.No.297 of 2016, with the following reliefs:

“a. Refer the Ist respondent/Ist plaintiff to the District Medical Board, Vellore. Vellore District to ascertain the mental status and get a certificate from the Medical Board regarding the mental status of the Ist Respondent/Ist plaintiff, and

b. To direct the Ist respondent/Ist plaintiff, 2nd Respondent/2nd Plaintiff and C.Rangasamy to produce the original treatment records to till date including treatment record dated 14.06.2000 of Dr.R.M.Bhoopathy, Govt. Stanely Hospital, Chennai-1. Original Mental retarded certificate issued on 04.08.2000, by Dr.VMS. Praburaj, Govt. Hospital, Ambur and application/representation made in September 2012 by C.Rangasamy seeking employment to the 2nd respondent/2nd Plaintiff to the District Collector, Vellore and the same was to the forwarded to the Block Development Officer, Pernambut, Vellore District to mark as documents Exhibits and give evidence before this Hon'ble Court and to thus render justice.”

11. A counter was filed in the above application and the learned Principal District Munsif, Ambur, in the course of the order dated 27.01.2017, very clearly observed that a similar application had been filed earlier and the same has been dismissed and later the revision filed had also



CRP (PD).No.675 of 2017
and CMP. No.3416 of 2017

WEB COPY

been dismissed by this Court and stated that filing of a second application for the very same reason was not at all maintainable and therefore, had dismissed the said application.

12. I would extract the relevant portion of the order passed by the learned District Munsif which is as follows:-

“3. The petitioner/1st defendant raising the same contention as made in IA.No.280 of 2013 has now filed this petition once again to refer the 1st respondent/1st plaintiff to medical board to ascertain mental status of 1st respondent/1st plaintiff under a different provision of law namely under order 32 Rule 15 CPC. Therefore once the attempt of the petitioner/1st defendant to prove mental status of 1st respondent/1st plaintiff's has become unfruitful the petitioner/1st defendant has come up with this 2nd petition agitating the same contention that the 1st respondent/1st plaintiff is mentally retorted without setting aside the order passed by the Honourable High Court in CRP.3097/2013, which is not permissible. Just because the petitioner/1st defendant has filed this 2nd petition under a different provision of law it would not entitle the petitioner /1st defendant to persue is claim under the came flouge of quoting the different provision of law when already the merits of the claim of the petitioner/1st defendant has been decides



CRP (PD).No.675 of 2017
and CMP. No.3416 of 2017

WEB COPY

once for all. Therefore the prayer to refer the 1st respondent/1st plaintiff is without any merit and is liable to be rejected.”

13. Along with the application, the petitioner appears to have filed several documents. Those documents had also been addressed by the Principal District Munsif, who stated that the said documents cannot be taken note of at that particular stage.

14. I really wonder as to how the first defendant, against whom there was a specific plea that having returned back from service, has been cohabiting with two other ladies after having married the first respondent/first plaintiff/wife can turn around complaining that his wife/first respondent is suffering from mental illness.

15. The issue before the Court is whether the cancellation of the settlement deed by him was based on lawful grounds. To divert the attention of the trial Court, he had filed applications to examine the mental status of his own wife. The said application was dismissed. Seeking the very same relief, he had filed another application after three years. That



*CRP (PD).No.675 of 2017
and CMP. No.3416 of 2017*

WEB COPY

was again dismissed. In my opinion the said application was correctly dismissed by the learned Principal District Munsif.

16. It is for that reason that I started the order with the opinion that the revision has no legs to stand and it has to be dismissed.

17. I hold that I.A.No.297 of 2016 has been correctly dismissed by the learned Principal District Munsif, Ambur. The earlier revision petition was dismissed with costs of Rs.2000/-. Now the present revision petition is dismissed with costs of Rs.20,000/-.

18. It is unfortunate on the part of the revision petitioner/first defendant that having executed a settlement deed in favour of his wife and later having cancelled the settlement deed, which cancellation itself is questionable and only a Court can direct cancellation of a settlement deed, he had, to divert the attention from that particular issue, filed applications alleging that his own wife is mentally unsound.



*CRP (PD).No.675 of 2017
and CMP. No.3416 of 2017*

WEB COPY

19. This Revision Petition is dismissed with costs of Rs.20,000/-

payable to the first and second respondents herein/plaintiffs. Costs are to be paid on or before 31.03.2022. Consequently, connected Miscellaneous Petition is closed.

07.03.2022

Index: Yes/no

Speaking Order: Yes
ab/kmi

To

1. The District Collector,
Vellore District,
Vellore.

2. The Tahsildar,
Taluk Office,
Ambur.

3. The Sub-Registrar,
Sub Registrar Office,
Ambur.



WEB COPY



*CRP (PD).No.675 of 2017
and CMP. No.3416 of 2017*

C.V.KARTHIKEYAN, J.

ab/kmi

CRP(PD) No.675 of 2017
and
CMP. No.3416 of 2017

07.03.2022