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C.R.P.No.4241 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 22.12.2022**

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**C.R.P.No.4241 of 2022**  
**and**  
**C.M.P.No.22232 of 2022**

V.Karthikhaa Sri

... Petitioner

Vs.

1.Padmanabhan

2.Manoharan

3.Rama

4.T.Gopal

5.K.Sathish Kumar

... Respondents

**Prayer:** Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decretal order made in I.A.No.521 of 2020 in O.S.No.287 of 2019 dated 28.10.2022 on the file of the Principal District Munsif at Poonamallee and thereby allow the Revision and dismiss the suit in O.S.No.287 of 2019 on the file of the Principal District Munsif Court at Poonamallee.

For Petitioner

: Mr.R.Thiagarajan



## **ORDER**

The Civil Revision Petition has been filed to set aside the fair and decreetal order dated 28.10.2022 passed in I.A.No.521 of 2022 in O.S.No.287 of 2019.

2. The revision petitioner is the 5<sup>th</sup> defendant in the Suit instituted by the 1<sup>st</sup> respondent for declaration. The relief sought for in the Suit is to declare the settlement deed dated 25.01.2007 executed by the 1<sup>st</sup> defendant in favour of the 2<sup>nd</sup> defendant as null and void. Power of attorney deed dated 24.05.2007 executed by the 2<sup>nd</sup> defendant in favour of the 3<sup>rd</sup> defendant is null and void. Sale Deed dated 30.03.2012 executed by the 3<sup>rd</sup> defendant in favour of 4<sup>th</sup> defendant as null and void and the Sale Deed dated 14.05.2014 executed by the 4<sup>th</sup> defendant in favour of the 5<sup>th</sup> defendant as null and void.

3. The plaintiff and the 1<sup>st</sup> defendant are brothers. The Suit property originally was possessed by the plaintiff's father Krishnasamy through partition deed dated 27.01.1978. After the demise of the said Krishnasamy, the Suit Property was inherited by the plaintiff's mother Smt.Sulochana and two sons Padmanaban and Manoharan. The plaintiff claimed that his mother



Smt.Sulochana executed Settlement Deed dated 04.07.2013 in favour of the plaintiff. Based on the Settlement Deed, the 2<sup>nd</sup> defendant has sold the Suit Property to the 4<sup>th</sup> defendant through power agent. The 4<sup>th</sup> defendant in turn further sold the property to the 5<sup>th</sup> defendant by Sale Deed dated 14.05.2014. The plaintiff came to know about the impugned deeds only after 23.07.2018 and he made a complaint before the Inspector of Police, Vellavedu on 20.08.2018. The copy of the complaint filed before the Inspector of Police, Vellavedu and Superintendent of Police, Tiruvallur, were annexed along with the plaint filed by the plaintiff.

4. The revision petitioner filed Interlocutory Application under Order VII Rule 11 mainly raising the ground of limitation. When several documents were registered and when the plaintiff states that the property belongs to his father, he has got a right over the property as a legal heir and documents were executed behind his back and filed a Police complaint in the year 2018 after knowing about these documents, instituted a Suit for declaration. Thus, it is mixed question of law and facts, which is to be tried with reference to the documents and evidences made available on record. Though, the disputed facts cannot be decided in Interlocutory Application filed under Order VII



Rule 11. *Prima facie*, if the Suit is barred by limitation, then alone the power needs to be invoked under Order VII Rule 11 but not otherwise.

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5. When several factors are raised in the plaint and the plaint as a whole is to be read for the purpose of considering the cause of action in the Suit. Thus, this Court do not find any infirmity in respect of the findings made by the Trial Court, while rejecting the Interlocutory Application filed under Order VII Rule 11 of CPC. Thus, the Civil Revision Petition devoid of merits and stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

**22.12.2022**

Jeni  
Index : Yes  
Speaking order

To  
The Judge,  
Principal District Munsif Court,  
Poonamallee.



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**S.M.SUBRAMANIAM, J.**

Jeni

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