



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.03.2022

CORAM :

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THE HONOURABLE MRS.JUSTICE S.ANANTHI

CR.P.(MD)Nos.1017 & 2303 of 2016
and
C.M.P.(MD)Nos.5079 & 10615 of 2016

C.R.P.(MD)No.1017 of 2016

1.Gurusamy
2.Mangathayammal ... Petitioners/Defendants

Vs.

1.Saroja
2.Jeyaseelan
3.Saravanan
4.Rajeswari ... Respondents/Plaintiffs

PRAYER: Civil Revision Petition under Article 227 of the Constitution of India, to allow this Civil Revision Petition striking off the plaint in O.S.No.50 of 2016 on the file of the District Munsif Court, Usilampatti.

For Petitioners :Mr.R.G.Sankar Ganesh
For Respondents :Mr.S.Natesh Raja

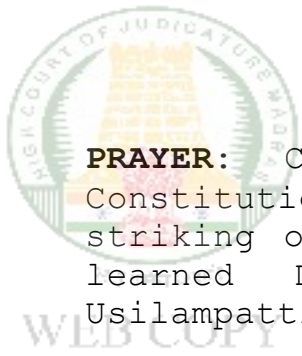
C.R.P.(MD)No.2303 of 2016

1.Gurusamy
2.Mangathayammal
3.G.Deivam
4.G.Seenivasan ... Petitioners/Defendant Nos.1,2,5 & 6

Vs.

1.Saroja
2.Jeyaseelan
3.Saravanan
4.Rajeswari ... R-1 to R-4/Plaintiffs
5.Vairamani

... R-5 & R-6/D-3 & D-4



PRAYER: Civil Revision Petition under Article 227 of the Constitution of India, to allow this Civil Revision Petition striking off the plaint in O.S.No.99 of 2016 on the file of the learned District Munsif Cum Judicial Magistrate Court-I, Usilampatti.

For Petitioners :Mr.R.G.Sankar Ganesh
For R-1 to R-4 :Mr.T.Lajapathi Roy

COMMON ORDER

C.R.P. (MD)No.1017 of 2016 has been filed to strike off the plaint in O.S.No.50 of 2016 on the file of the District Munsif Court, Usilampatti.

C.R.P. (MD)No.1017 of 2016 has been filed to strike off the plaint in O.S.No.99 of 2016 on the file of the learned District Munsif Cum Judicial Magistrate Court-I, Usilampatti.

2.The parties are referred to as per the rank mentioned before the Court below.

3.The revision petitioners have filed a petition in C.R.P(MD) No.1017 of 2016 to strike off the plaint in O.S.No.50 of 2016 on two grounds; (i)suppression of facts and (ii)the suit is hit by *res-judicata*.

4.He given up the prayer of *res-judicata*.

5.Suppression of Facts: The suit in O.S.No.3 of 1993 was filed by the plaintiffs for permanent injunction and in the said suit, both the parties were compromised and compromise decree was also passed. After that the father of the plaintiffs have filed a suit in O.S.No.280 of 2004 for declaration and injunction and the same was dismissed on 15.11.2007. So, compromise decree has become invalid as waived. Now, the plaint in O.S.No.50 of 2016 was filed for the following reliefs:

(a).granting permanent injunction restraining the defendants their men and agents from in any way interfering with the plaintiffs' peaceful possession and enjoyment of the suit property.

(b).declaring that the alleged sale deed executed by the 2nd defendant in favour of the 3rd defendant on 5.1.1998 under document number 3/98 is null and void before the court of law.



(c). declaring that the alleged sale deed executed by the 2nd defendant in favour of the fourth defendant on 19.1.1998 under document number 24/98 is null and void before the court of law.

(d).declaring that the alleged sale deed executed by the 2nd defendant in favour of the 4th defendant on 19.1.1998 under document number 24/98 is null and void

(e).granting permanent injunction restraining the 5th and 6th defendants from in any way encumbering the suit property to third parties

(f).directing the defendants to pay the Costs of this action to the plaintiffs.

6.All the reliefs based only on the compromise decree. Originally, the plaintiffs have not stated anything about in O.S.No.280 of 2004. Now, they amended the plaint details of the suit.

7.C.R.P.(MD)No.2303 of 2016 has been filed by the defendants to strike off the plaint in O.S.No.99 of 2016. The said suit was filed by the plaintiffs for the following reliefs.

(a).granting permanent injunction restraining the defendants their men and agents from in any way interfering with the plaintiffs' peaceful possession and enjoyment of the suit property,

(b)declaring that the alleged sale deed executed by the 2nd defendant in favour of the 3rd defendant on 5.1.1998 under document number 3/98 is null and void before the court of law,

(c)declaring that the alleged sale deed executed by the 2nd defendant in favour of the 4th defendant on 19.1.1998 under document number 24/98 is null and void before the court of law,

(d)declaring that the alleged sale deed executed by the 2nd defendant in favour of the 4th defendant on 19.1.1998 under document number 24/98 is null and void before the court of law,

(e)granting permanent injunction restraining the 5th and 6th defendants from in any way encumbering the suit property to third parties.

8.The relief sought for in the suits in O.S.Nos.50 & 99 of 2016 are same only. In the appeal the title and possession of the plaintiffs is to be decided. But, for the same relief they have filed two suits. So, both the plaints are strike off. Since compromise decree was hit by the Judgment and Decree in O.S.No.3 of 1993 the plaintiffs are directed to seek their remedy in appeal suit in A.S.No.222 of 2008, which was filed against the Judgment and decree in O.S.No.280 of 2004.



9. With the above observations, these Civil Revision Petitions are allowed. Consequently, connected miscellaneous petition is closed.

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Assistant Registrar (WRITS)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1. The District Munsif Court,
Usilampatti.

2. The District Munsif cum Judicial Magistrate-I,
Usilampatti.

+1 CC to M/s.R.G.SHANKAR GANESH, Advocate (SR-14138[F] dated 24/03/2022)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-13819[F] dated 23/03/2022)

Common Order made in
C.R.P. (MD) Nos. 1017 &
2303 of 2016
22.03.2022

USK/19.04.2022/4P/5C