



C.R.P.(PD)No.2544 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD)No.2544 of 2023

1.C.Muniraju

2.C.Sureshkumar

.. Petitioners

Vs.

1.Rajeswari

2.Thirumalesh

3.Ambika

4.Aruna

5.Srinivas

6.Nyathappa

7.Narayanappa

S/o.Late Ramaiah

8.P.Narayanappa

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against an order dated 09.02.2023 in Un.No.O.S. in SR.No.802 of 2023 passed by the learned Principal Subordinate Judge, Hosur, rejecting the suit without numbering.

For Petitioners : Mr.V.Karthikeyan
for Mr.V.Nicholas



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C.R.P.(PD)No.2544 of 2023

ORDER

Civil Revision Petition is filed against an order of the learned Principal Subordinate Judge, Hosur, dated 09.02.2023 in rejecting a plaint even without numbering.

2. Heard the learned counsel for the petitioners. I have carefully perused the records.

3. The revision petitioners are the plaintiffs. They seek for the relief of declaration of title and for permanent injunction. Apart from that, they seek for the relief of declaration that the sale deed executed by their father in favour of the third parties is not binding and is null and void. They would also seek for declaration that the gift deed executed on 22.01.1968 and the sale deed executed in the year 1983 are null and void.

4. In the light of the order that I am going to pass, there is no necessity to issue notice to the other side.

2/5



C.R.P.(PD)No.2544 of 2023

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5. This Court in ***Selvaraj vs. Koodankulam Nuclear Power Plant India Limited, represented through its Project Director, Koodankulam, Ramanathapuram Taluk, Tirunelveli District, 2021 (4) CTC 539*** has held that it is not the duty of the Court ‘to play’ defendant in the suit. The issue of limitation is a mixed question of law and facts and cannot be gone into at the time of initial numbering of the suit. The necessary pleadings for the cause of action having been made, it is the duty of the Court to number the plaint. If the defendants so desire, they could always take out an application for rejection of the plaint. The power to reject a frivolous suit is always available to the Court as held in the case of **Selvaraj** as cited above. Where complicated issues of law, which requires facts to be tendered in evidence, it is not the duty of the Court to reject them at the stage of numbering.

6. The finding of the Court below that the plaintiff ought to have verified the title, presumes that the title was not verified. A presumption,



C.R.P.(PD)No.2544 of 2023

which is not supported in evidence. Therefore, in the light of the judgment passed by this Court and the facts and circumstances of this case, I set aside the order passed dated 09.02.2023.

7. The learned Principal Subordinate Judge, Hosur, is requested to number the suit and issue notice to the defendants. I make it clear that it is open to the defendants to raise a plea of limitation and all other defences available to them.

8. With the above directions, the Civil Revision Petition stands allowed. No costs.

31.07.2023

Index:Yes/No
Speaking Order :Yes/No
Neutral Citation:Yes/No
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C.R.P.(PD)No.2544 of 2023

V.LAKSHMINARAYANAN,J.

Kj

To

The Principal Subordinate Judge, Hosur.

C.R.P.(PD)No.2544 of 2023

31.07.2023

5/5