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C.R.P.No. 883 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.R.P.No. 883 of 2023

P.Anusudha

.. Petitioner

Vs

1.D.Nallamuthu

2.Kousalya

3.P.Duraisamy

4.A.Loganathan

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside fair passed in unnumbered O.S.SR.No.5225 of 2022 dated 09.09.2022 on the file of the Subordinate Judge at Dharapuram and consequently direct the learned Subordinate Judge at Dharapuram to number the suit filed in unnumbered O.S.No.SR.No.5225 of 2022.

For Petitioner	: Mr.R.Jayaprakash
For RR1 to 3	: Mr.N.Manoharan
For R4	: Died



C.R.P.No. 883 of 2023

ORDER

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2. Before the trial Court, the plaintiff / petitioner herein filed the suit for the relief of declaration to declare the sale deeds dated 15.02.2006 and 28.08.2006 and settlement deed dated 27.04.2022 as null and void. According to the plaintiff / petitioner herein, she filed the suit for partition, declaration and other consequential relief. According to her, the suit property was jointly purchased by his father, Mani @ Palanisamy and A.Loganathan / D4. As the petitioner's father / Mani @ Palanisamy died on 04.09.1992 leaving behind his wife (Dhanalakshmi) and his daughter, Anusudha, who is the plaintiff / petitioner herein, subsequently, her mother also died on 19.09.2021. After the death of the plaintiff / petitioner's mother, she came to know that the property was purchased by her father, the same was sold by her mother on 15.02.2006 and 28.02.2006, at that time, she was minor. The plaintiff had legal consultation as to the validity of the sale deeds dated 15.02.2006 and 28.02.2006 executed by the mother of the plaintiff for



C.R.P.No. 883 of 2023

hereself and also by representing the plaintiff's interest. The defendants 1 and 3 subsequently settled in favour of their daughter / D2, in the year 2022.

Therefore, plaintiff / petitioner herein submits that the sale deeds executed by her mother will not bind, as she was minor and her mother without permission of the Court made such a sale as such will not bind. Hence, she approached the Court for partition and cancellation of the documents but the same was rejected by the trial Judge stating that she attains majority on 04.10.2007, within three years of the majority, she has not filed the suit. Therefore, the suit is barred by limitation since she filed the suit after 15 years of majority. Accordingly, plaint was rejected. Challenging the same, the present revision has been filed.

3. The learned counsel for the respondents 1 to 3 submits that the fourth defendant / Loganathan who is the co-purchaser along with the plaintiff's father also died long back on 19.02.2014. Further, the learned counsel submits that as per the sale deeds, for valid consideration, he purchased long back in the year 2006. Immediately after attaining majority, plaintiff / petitioner herein has not filed the suit, nearly about 15 years later



C.R.P.No. 883 of 2023

she preferred the suit and the trial Judge rightly rejected, which needs no interference besides also pointed out that rejection of the plaint will amount to decree, against which, appeal alone is liable not revision.

4. Admittedly, the submission of the learned counsel for the respondents is reasonable one. Therefore, the rejection of the plaint will amount to decree. If at all any grievance for the plaintiff / petitioner herein, she wants to prefer appeal not the revision, on that ground revision is not maintainable.

5. Accordingly, the Civil Revision Petition is dismissed. No costs. However, liberty is granted to the plaintiff / petitioner herein to approach the right forum to prefer an appeal as per the manner known to law.

24.11.2023

Index :Yes/No
Neutral Citation :Yes/No
AT

To
The Subordinate Court, Dharapuram.

4/5



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C.R.P.No. 883 of 2023

T.V.THAMILSELVI, J.

AT

C.R.P.No. 883 of 2023

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