



C.R.PD.No.1374 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 6/6/2023

C O R A M

THE HONOURABLE Dr.JUSTICE D.NAGARJUN

Civil Revision Petition PD No.1374 of 2023

1. Rani @ Indirani
2. Saroja
3. A Vetriselvi
4. A. Silambuselvi
5. A. Basumani
6. A. Chitramani
7. A. Iyperumselvi
8. A. Arulselvi

...

Petitioners

Vs

1. L. Vetrivelu
2. V. Thayumanavan
3. V. Arasu
4. The Sub-Registrar
Kundrathur
Kancheepuram District.

...

Respondents

Prayer: Petition filed under Article 227 of the Constitution of India to call for the records from the District and Sessions Judge, Court No.II, Kancheepuram and to set aside/revise the impugned order passed in the unnumbered Original Suit (S.R.No.1742/2023) dated 5/4/2023 and to direct the District and Sessions Judge, Court – II, Kancheepuram to take



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the unnumbered plaint on file and number the plaint in unnumbered Original Suit (SR) No.1742 of 2023 dated 5/4/2023 pending on the file of the District and Sessions Judge, Court No.II, Kancheepuram and to direct to decide the same on merits and in accordance with law within a time frame.

For Petitioners ... Mr.R.Ganesan

ORDER

This Civil Revision Petition is filed, questioning the orders passed by the learned District and Sessions Judge, Court No.II, (FAC), Kancheepuram, in S.R.No.1742 of 2023, dated 5/4/2023 by which the learned District and Sessions Judge, has rejected to register the suit.

2. The facts in brief as can be gathered from the record would go to show that the petitioners have filed a suit seeking declaration that they are the absolute owners of the schedule of the properties and for consequential permanent injunction against the respondents. It is alleged that on 13/3/2023, though learned Judge has ordered for registration of the suit, immediately, he has struck off the endorsement of taking the case on file and returned the plaint, on the very same day, i.e., on 13/3/2023, with following objections:-



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“1. Measurement of property to be furnished as correctly in Item Nos.1 and 2 of suit schedule properties.

2. As per plaint para 8, the plaintiff and her two brothers were attained majority on 6/5/1964, hence how the suit is filed in time.

3. Guideline value and market value of suit property to be filed.

4. As para No.11 of plaint, why the plaintiff not praying to declare the sale deed dated 6/5/1964 as null and void.

5. The counsel for plaintiff is directed to obtain signature in each page of the plaintiff (time 1 month).

3. The petitioner has resubmitted the plaint on 16/3/2023 by complying the objections raised by the learned Judge. However, the plaint was rejected on 5/3/2023 by way of the following order:-



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“This unnumbered suit in S.R.No.1742 of 2023 has been filed under Order 7 Rule 1 r/w. Section 26 of C.P.C., to declare that the plaintiffs are the absolute owners of the suit properties and to grant permanent injunction restraining the defendants 1 to 3 their men, agents, servants or anyone acting on their behalf from in any manner interfering with the plaintiffs peaceful possession and enjoyment of the suit property and for costs.

The plaintiffs seeks to cancel a document executed in the year 1953 alleging that now only he came to know that the plaintiffs has not stated reasonable or acceptable reasons for not knowing the 1953 document till date. Hence the suit is rejected.”

4. Being aggrieved by the same, the petitioners have come forward with the instant Civil Revision Petition.



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WEB COPY 5. Heard Mr.R.Ganesan, learned counsel for the petitioners.

6. The impugned order would go to show that the petitioners were seeking for cancellation of the document executed in the year 1953 on the ground that the petitioners were not aware of execution of such document, and thereby, suit was rejected.

7. It is submitted by the learned counsel for the petitioners that the learned Judge has not gone through the plaint as the petitioners have never sought for any relief in respect of cancellation of document which is alleged to have been executed in the year 1953.

8. This Court has gone through the prayer portion of the plaint wherein, it is clear that there is no prayer seeking to cancel the document which is allegedly executed in the year 1953. Once, there is no prayer in respect of seeking cancellation of a document, making one of the grounds for rejection of plaintiff is beyond the compensation of this Court. Even if such a relief is really sought for still, whether the plaintiffs are aware of such execution and thereby whether suit claim is barred by limitation are



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the questions that are required to be decided only after the trial and thereby it may not be a ground to reject the plaint even prior to registration of suit.

9. Further, the other argument of the learned counsel for the petitioners is that the Court has taken the suit on file initially and subsequently, struck off the same with the help of a whitener and returned it. So far as this aspect is concerned, this Court does not want to make any comment as the record speaks for itself.

10. In any event on the face of it, it appears to this Court that the reason offered by the learned Judge in rejecting the plaint on the ground that the petitioners are seeking the cancellation of the document executed in the year 1953 itself is beyond the pleadings and factually incorrect as nothing is found out in the prayer portion.

11. Considering the circumstances, the order passed by the learned District and Sessions Judge, District and Sessions Court No.II (FAC), Kanchipuram, rejecting the S.R.No.1742/2023 is hereby set aside and the **Civil Revision Petition is allowed.**



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WEB COPY 12. The petitioners are directed to resubmit a plaint before the learned Judge, within a period of two weeks, from the date of receipt of a copy of this order, on which, the learned Judge is directed to reconsider the plaint, basing on the materials available and register the same, in case, it is otherwise in order, by passing appropriate orders, as per law.

No costs.

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Index :yes/no

Neutral Citation: Yes/No

mvs.

Note: Registry is directed to return the original plaint and other documents, if any filed by the petitioners, after substituting the same with certified copies.

To

The District and Sessions Judge, Court No.II, Kancheepuram



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Dr.D.NAGARJUN,J

mvs.

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