



Rev. Appl. Nos. 59 of 2020 & 101 of 2021

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Rev. Appl. Nos. 59 of 2020 & 101 of 2021

and

C.M.P.No. 12116 of 2021

against

S.A. No. 812 of 2013

& C.M.P.No. 3417 of 2020

R.Vijayasamundeeswari,
W/o. Late T.K.Ravichandra Mouli

.. Petitioner in
both R.A.s

Vs.

P.Anandavalli ammal (died)

2. Lakshmikantham
W/o. Late Adimoolam

3. Perumal Mudaliar
4. P.Siva Selvam
5. Vijayalakshmi
6. Poonkuzhali
7. P.Athithan



Rev. Appl. Nos. 59 of 2020 & 101 of 2021

(R3 to R7 are impleaded as legal heirs
of deceased R1 vide Court order
dated 10.11.2022 made in C.M.P.
Nos. 19175 & 19183 of 2022)

.. Respondents in
both R.A.s

PRAYER in Rev.Appl. No.59 of 2020 : Review Application filed under
Order XLVII Rule 1 Sec.114 of C.P.C., praying to review and reconsider
the order dated 02.03.2020 in C.M.P.No.3417 of 2020 in S.A.No. 81 of
2023 passed by this Court.

PRAYER in Rev.Appl. No.101 of 2021 : Review Application filed under
Order XLVII Rule 1 Sec.114 of C.P.C., praying to review and reconsider
the order dated 02.03.2020 in S.A.No. 81 of 2023 passed by this Court.

For Petitioner in : Mr. T.M.Hariharan for
both R.A.s Mr.M.Vijayakumar

For Respondents : Mr.K.Doraisamy,
in both R.A.s Senior Advocate for
Mr.A.Bharathi for R1

Mr.S.Sethuraman for R2

COMMON ORDER



Rev. Appl. Nos. 59 of 2020 & 101 of 2021

The Review Petitioner herein is a third party to the Second Appeal.

The 2nd respondent herein filed a suit in O.S.No.113 of 2007 on the file of Sub-Judge, Tindivanam against the 1st respondent herein for the relief of declaration that she is the absolute owner of 6 acres and 26 cents of land in Survey No.61/1, Pallipattu village, Tindivanam and also prayed to declare the sale deed, which stands in the name of 1st respondent/defendant dated 28.09.2000 as sham and nominal document.

2. For the sake of convenience, the parties are referred as per the ranking in the suit.

3. The case of plaintiff is that the property originally belongs to her father Arumuga Mudaliar and after his demise, as a only daughter, she is a absolute owner of the property, but her daughter Rajeswari seems to have executed a sale deed in favour of this defendant based on the Will said to be executed by her parents Arumuga Mudaliar and Visalakshi in the year of 1995, but the alleged Will was forged one. So, the vendor of defendant has no title, thereby she prayed to declare the sale deed stands in the name of



Rev. Appl. Nos. 59 of 2020 & 101 of 2021

defendant as null and void. On the contrary, the defendant Anandhavalli contested the suit stating that the vendor Rajeswari was one of the grand daughters of Arumuga Mudaliar and Visalakshi, through plaintiff, she was brought up by a testator and out of love and affection, they have executed a Will, based on that, she perfected her title from the year of 1995 onwards, but the defendant and her husband cultivating the lands much earlier from the year of 1988. Subsequently, the beneficiary Rajeswari executed a sale deed in her favour in the year of 2000, thereby she became absolute owner. After fullfledged trial, the trial court disagreed with the claim of defendant and also not accepted the title of her vendor and consequently declared that the plaintiff is the absolute owner of the suit property. Against which, an appeal in A.S.No.31 of 2012 was filed, wherein the first appellate judge also confirmed the findings of the trial court by dismissing the appeal. Against which, the defendant Anandavalli preferred the present Second Appeal in S.A.No. 812 of 2013.

4. During the pendency of the proceedings, there was a compromise



Rev. Appl. Nos. 59 of 2020 & 101 of 2021

between plaintiff and defendant. Accordingly, on the advise of wellwishers to settle the dispute among themselves amicably and in pursuant to the compromise arrayed between the parties, both parties in Second Appeal agreed to settle the issue, the subject matter of the suit in O.S.No.113 of 2007 with valuable conditions. Accordingly, the plaintiff hereby affirms and agrees that the defendant shall continue to enjoy possession of the suit property and the plaintiff has no claim or claims in the suit property in any manner and agree to withdraw the suit and recognise the title of defendant. Further, the plaintiff agrees that she shall not cause any interference in the defendant's enjoyment. Thus, a joint compromise was recorded. Hence, in terms of joint memo of compromise, the Second Appeal is allowed.

5. During the pendency of the appeal, the Review Petitioner has filed a petition in C.M.P.No. 3417 of 2020 praying to implead herself as party to the proceedings contending that she is a daughter-in-law of the plaintiff in the second appeal and after the decree granted in favour of plaintiff, she executed a settlement deed in favour of her son T.K.Ravichandra Mouli, husband of Review Petitioner. As he unable to look after the affairs, he gave



Rev. Appl. Nos. 59 of 2020 & 101 of 2021

a power of attorney to his wife/review petitioner herein in the year of 2013.

Thereafter, she alone look after the possession and enjoyed the property and found some public charitable trust in the property and she enjoyed the same as absolute owner, besides all her children executed a release deed in her favour. Accordingly, she prayed to implead her as a second respondent in the above appeal. That petition was dismissed and while recording the compromise, this court held that the Review Petitioner is the third party to the proceedings and her interest over the property said to be created only pending litigation before the lower court as well as this court and the alleged transaction is a pendente lite development. So, this court is not bound to hear third party, when the original party has agreed to settle lis between them. The party, who acquired the interest pendente lite cannot prevent the parties from arriving settlement between them. Accordingly, the said impleading petition was dismissed. After the dismissal of Second Appeal, now third party to the proceedings, the Review Petitioner preferred this Review Petition.

6. The learned counsel for Review Petitioner argues that when the necessary parties to the suit are not impleaded in the original suit, both



Rev. Appl. Nos. 59 of 2020 & 101 of 2021

plaintiff and defendant colluded together and made to record the compromise in order to defeat the rights of this Review Petitioner. In fact, this Court ought to have taken note of the fact that already the plaintiff executed a settlement deed in favour of her son on 02.09.2012 and the said deed was acted upon and the Settlee/the husband of Review Petitioner gave power of attorney to her and portion of properties also gifted to a Charitable Trust, besides based on power of attorney, she also executed several registered instruments and all those facts were suppressed by the parties to the suit and fraudulently entered into the alleged compromise. Accordingly, the plaintiff has no right to enter into a compromise, since because she has no successive interest in the subject matter as she already settled the suit property in favour of her son on 21.09.2020 and the purchase of the defendant also not been accepted by the trial court. Only with a view to knock off the property, the alleged compromise was entered. So, the Review Petitioner needs right of allegiance in order to establish her right over the property, but this court refused to implead her as she is the pendente lite transferee as such is totally erroneous on the face of record. Therefore, she prayed to review the order passed in C.M.P. No.3417 of 2020.



Rev. Appl. Nos. 59 of 2020 & 101 of 2021

WEB COPY

7. By way of reply, the learned counsel for respondent/plaintiff would submit that as the plaintiff is more than 85 years lady want to settle the issue amicably and on the advise of well wishers she entered into a compromise with the defendant affirms and agrees that the defendant shall continue to enjoy the possession of property and also agreed to withdraw the suit and recognise the title over the suit property by relinquishing all her right and title, thereby the defendant became absolute owner of the suit property. When the party to the suit proceedings entered into a compromise, the Review Petitioner has no right to raise objection and this court rightly dismissed the impleading petition in C.M.P. No. 3417 of 2020 and rightly recorded the compromise as such there is no error on the face of record and the relief claim by the Review Petitioner is beyond the scope of review. Accordingly, he prayed to dismiss the review petition by relying the ratio laid down in the following authority reported in (2012) 7 SCC 200 in the case of *Haryana State Industrial Development Corporation Ltd. vs. Mawasi and others*, wherein the Apex Court held as follows :-

“Land Acquisition Act, 1894 – Ss. 23 and 54 – Review of



Rev. Appl. Nos. 59 of 2020 & 101 of 2021

judgment – Scope of – Error apparent on face of record – Absence of – Roving inquiry or de novo hearing in guise of review – Impermissibility – Supreme Court's judgment fixing market value of acquired land on basis of particular sale transaction – Review of – Sought by State Development Authority on ground that said sale transaction was not a bona fide transaction as vendor and vendee companied had common management and produced with review petition to substantiate the said assertion – But, no explanation given as to why such documents were not produced before the courts below.”

8. Considering both side submissions and on perusal of the records, it reveals that the review petitioner is the daughter-in-law of the original plaintiff. The plaintiff claiming absolute right over the property disputing the purchase made by the defendant and claiming absolute title over the property as legal heir of her father, original owner of the property. The defendant claimed right over the property under the sale deed of the year 2000 contending that the suit property was settled by Arumuga Mudaliar in favour of one Rajeswari, one of granddaughter of plaintiff in the year of 1995, thereby denied the plaintiff's right over the property. Both the courts below



Rev. Appl. Nos. 59 of 2020 & 101 of 2021

not accepted the case of defendant and granted relief in favour of plaintiff.

During the Second Appeal proceedings, there was a compromise between the plaintiff and defendant, thereby the plaintiff relinquish all her claim over the property and affirms to the title of plaintiff. Accordingly, a joint compromise was recorded and the Second Appeal was disposed of. Now, the Review Petitioner, as a daughter-in-law of plaintiff contending that her mother-in-law executed a gift deed in favour of his son T.K.Ravichandra Mouli after the suit decreed in the year of 2012. Thereafter, husband gave power of attorney to her in the year 2013 and she alone possessed and enjoyed the property. After the demise of her husband, her sons also gave settlement deed. So, she became the absolute owner of the property.

9. During the enquiry of Review Applications, both plaintiff, defendant and the Review Petitioner were directed to appear before this court in order to arrive a compromise. When this court enquired the plaintiff Lakshmikanthan, aged about 85 years old, who appeared before this court and submitted that in fact she was not aware of the outcome and implication of these proceedings and her son T.K.Ravichandra Mouli was managing the



Rev. Appl. Nos. 59 of 2020 & 101 of 2021

litigation and behind her back, all the proceedings were initiated by him as if she consented, thereby she would submit that she has not filed the suit proceedings and without her knowledge, her son has initiated the said suit against the defendant. Furthermore, she also submitted before this court and she has not executed any gift settlement deed in favour of her son T.K.Ravichandra Mouli and the said gift deed also might have fraudulently created by her son by obtaining the signature from her by way of misrepresentation. So, she denies the alleged execution of gift settlement deed stands in the name of husband of Review Petitioner. However, during the pendency of proceedings and after hearing submissions, when the matter was reserved for orders, the defendant Anandavalli died and her legal heirs were impleaded and this court recorded the submissions of both plaintiff and defendant much earlier. So, impleading legal heirs would not cause any hardship to the Review Petitioner.

10. Furthermore, on perusal of records, this court found that the alleged gift settlement deed said to be executed on 02.09.2012 and originally, the suit was decreed in favour of plaintiff on 28.06.2012. Against which, the first Appeal was filed on 10.07.2012. During the first appeal



Rev. Appl. Nos. 59 of 2020 & 101 of 2021

proceedings, son of plaintiff not informed this court about the said settlement nor he has taken any steps to implead himself in the said appeal proceedings. Thereafter, the first appeal was dismissed on 29.04.2013. In the meanwhile, a power of attorney was executed in favour of this Review Petitioner in the year of 2013 and thereafter, the Second Appeal was filed on 22.07.2013. Even before the Second Appeal proceedings, neither the husband of Review Petitioner nor the Review Petitioner disclosed about the settlement deed as well as power of attorney. Only at the fag end of recording compromise in the Second Appeal proceedings, the Review Petitioner filed an impleading petition without mentioning all these facts. If really, the said settlement deed was executed, the husband of review petitioner ought to have taken steps to implead himself in the appeal proceedings, but he has not taken such steps with some ulterior motive. So, the conduct of husband of Review Petitioner probabalise the submissions made by the plaintiff that without her knowledge, he manipulated all these proceedings upto Second Appeal. Therefore, the submissions made before this court is taken note of, since because the plaintiff is aged about 85 years old lady, she was abused by her son by obtaining her signature and gave evidence on behalf of her and



Rev. Appl. Nos. 59 of 2020 & 101 of 2021

inflicted the suit proceedings without her knowledge is taken note of by this court. Above all, the reasons assigned by this court to record compromise as such is sustainable and there is no error on the face of record. Therefore, the authorities relied on by the review petitioner for supporting her contentions is not applicable to the facts of present case and on perusal of records, it would clearly reveals that the Review Petitioner has not approached this court with clean hands due to aforesaid reasons. So, the reasons assigned by the Review Petitioner as such is not maintainable in law. Accordingly, the Review Applications are dismissed. Consequently, the interim order granted in favour of Review Petitioner is ordered to be vacated. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

05.07.2023

Index : Yes / No
Internet : Yes / No
Speaking/Non-speaking order
rpp

T.V.THAMILSELVI, J.

rpp



WEB COPY



Rev. Appl. Nos. 59 of 2020 & 101 of 2021

Rev. Appl. Nos. 59 of 2020 & 101 of 2021

05.07.2023