



C.R.P.No.4068 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2023

CORAM:

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

C.R.P.No.4068 of 2023

and

C.M.P.No.24895 of 2023

M/s.Casa Grande Civil Engineering
Private limited, Rep.by its Authorised
Signatory, Y.Mohan Raj, New No.111
Old No.59, LB Road, NPL Devi
Thiruvanmiyur, Chennai 600 041.

... Petitioner

-Vs-

1.P.Murugan
2.D.Arul
3.G.Suriyaprakash
4.R.Karpagam
5.S.Aravindh
6.G.Sasikala

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order passed in I.A. No.1468 of 2019 in O.S. No.220 of 2019 by the learned Additional District Munsif at Alandur and consequently allow the C.R.P. by rejecting the plaint filed in O.S. No.220 of 2019.

For Petitioner : M/s.Ganesh and Ganesh

For Respondents : Mr.Udhaya Kumar



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ORDER

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Challenging the impugned order passed in I.A.No.1468 of 2019 in O.S.No.220 of 2019 passed by the learned Addl. District Munsif, Alandur, the Revision Petitioner/5th defendant preferred this Civil Revision Petition.

2. Before the trial court, the 1st and 2nd respondents/plaintiffs filed a suit in O.S.No. 220 of 2019 against the defendants 1 to 5 for the relief of declaration and other consequential relief, more particularly, praying to declare the sale deed dated 19.06.2018 executed by defendants 1 to 4 in favour of 5th defendant as illegal. After service of notice, the Revision Petitioner/5th defendant appeared through his counsel and filed an application to reject the plaint in I.A.No.1468 of 2019 stating that the Revision Petitioner purchased the property in the year of 2018 and before that, he verified all the revenue records and it stands in the name of one T.Gegnappa Naicker, son of Thulukkanam, but after lapse of 33 years, the 1st and 2nd respondents/plaintiffs filed a suit as if they are having right over the property. In fact, no such document was produced, besides, in respect of the description of property, they wanted to declare the entire sale deed as null and void, but as per the original sale deed, it is pertaining to three survey numbers with an extent of 26 cents. But, the suit was filed only for



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an extent of 5 cents to declare the sale deed as null and void including other survey numbers, as such is not maintainable. Hence, he prayed to strike off the plaint. On hearing both sides, that application was dismissed by the trial judge holding that in respect of limitation period, it can be decided only after adducing of evidence during trial and the date of UDR patta also can be decided after adducing evidence and in respect of non-joinder of necessary party, it cannot be decided now. So, all the issues can be decided only at the time of trial, thereby it was dismissed. Challenging the said findings, the plaintiff preferred this Civil Revision Petition.

4. Records perused. On perusal of plaint pleadings, it reveals that the 1st and 2nd respondents/plaintiffs wanted to declare the sale deed dated 19.06.2018 as null and void, which is pertaining to an extent of 5 cents only, but in the original sale deed, three survey numbers are included. Therefore, the prayer sought by them as such is not acceptable one. By way of reply, the learned counsel for 1st and 2nd respondents/plaintiffs would submit that if at all, another two survey numbers are found in the said sale deed, he would restrict his claim by filing necessary application for amendment. Therefore, if they restrict the claim only for an extent of 5 cents, the 1st and 2nd respondents/plaintiffs are directed to file an



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appropriate application within a period of two weeks from the date of receipt of copy of this order. Furthermore, in respect of claim of title as well as limitation aspect, it can be decided at the time of trial after adducing evidence. Liberty is granted to the defendants to raise all their defence before the trial court. Accordingly, this Civil Revision Petition is disposed of. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes/No

Speaking Order : Yes/No

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To

The Additional District Munsif, Alandur.



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T.V.THAMILSELVI, J.

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