



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.07.2023

CORAM

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.2965 of 2019

and

C.M.P.No.19158 of 2019

Gunasekaran

...Petitioner.

Vs.

1.Socrates

2.Shanthi

3.Karunanithi

...Respondents.

Prayer:Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the Fair and Decreetal Order dated 11.04.2019 made in I.A.No.986 of 2018 in O.S.No.361 of 2012 on the file of the Learned District Munsif, Jeyankondam.

For Petitioner	:	Mahamandra Rajalakshmi
For Respondents	:	
For R3	:	Ms.S.Vijaya
For R1	:	-No Appearance-
For R2	:	Died.

ORDER

The plaintiff in O.S.No.361 of 2012 on the file of the District Munsif Court, Jayamkondam is the Civil Revision Petitioner. The claim of the plaintiff is that the first respondent (Socrates) had executed a document in favour of a Trust. Similarly, the plaintiff being the owner of the property



also entered into an exchange deed with the Trust, whereby the plaintiff's property was exchanged with the Trust property and *vice-versa*.

2. Pending the suit, the first respondent entered into an award in O.S.No.317 of 2012 with respect to the very same property. Therefore, an amendment application was filed challenging the agreement entered *inter se* the respondents and also the Lok Adalat Award which was passed by the Taluk Legal Services Committee on 10th of February 2017. This application under Order 6 Rule 17 was dismissed. Hence the revision.

3. The Learned Trial Judge dismissed the application on the ground that it changes the cause of action in the suit as well as the same being barred by time. It is pertinent to point out that the Lok Adalat Award in O.S.No.317 / 2012 came to be passed in 2017 and the amendment application had been filed in 2018. Therefore, the question of Limitation would not arise. Similarly, the plaintiff was not a party to the agreement between R1 and R3. Hence, knowledge of agreement cannot be attributed to the plaintiff. The frame of the suit is not changed. The relief sought for is consequential to the original relief. If the plaintiff succeeds in the original relief claiming title then any impediment which has been created pending



the suit will also have to be removed by the Court. If the plaintiff succeeds in proving that R1 and R3 did not have title to the property then the Lok Adalat Award itself will go. On the contrary, if R1 proves he had pre-existing title over the property, then Lok Adalat Award will be valid and binding. This is an issue which has to be gone at the time of the Trial.

4.The frame of suit, the cause of action not having been changed and the amendment not being barred by time, the Trial Court ought to have allowed the application. Amendments which are clarificatory in nature and which bring out subsequent events deserve to be liberally construed. Consequently, the present Civil Revision Petition is allowed, the order is set aside. The plaintiff shall file the amended plaint copy within a period of four (4) weeks from today. The defendants shall file a written statement within a period of four (4) weeks thereafter. The issues should be framed two (2) weeks therefrom. The suit itself should be taken up for Trial and disposed of on or before 30.04.2024. No costs. Connected civil miscellaneous petition is closed.

19.07.2023



Index : Yes/No
Neutral Citation Case : Yes/No
nst

V. LAKSHMINARAYANAN.J.,
nst

To:

The
District Munsif Court,
Jeyamkondam.

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