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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2023

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.R.P.No.4084 of 2023

and

C.M.P.No.24984 of 2023

S.Peryammal

... Petitioner

Vs.

1.V.Nagarajan

2.V.Perumal

3.V.Govindee

4.R.Alamelu

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the impugned order dated 28.06.2023 passed in I.A.No.252 of 2018 in O.S.No.243 of 2018 on the file of the District Munsif-Cum-Judicial Magistrate, Vazhapadi, Salem District.

For Petitioner

: Mr.L.Rajendran



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ORDER

The Civil Revision Petition has been filed challenging order dated 28.06.2023 passed in I.A.No.252 of 2018 in O.S.No.243 of 2018 on the file of the District Munsif-Cum-Judicial Magistrate, Vazhapadi, Salem District.

2. The learned counsel for the petitioner submits that the revision petitioner is the 1st defendant in the Suit in O.S.No.243 of 2018 filed by the respondents to declare the decree passed in O.S.No.777 of 2013 dated 05.04.2014 as null and void and to be set aside. The revision petitioner has filed an Interlocutory Application in I.A.No.252 of 2018 in O.S.No.243 of 2018 to reject the plaint filed by the plaintiffs / respondents and the same was dismissed by the Trial Court on the ground that in the earlier compromise decree the present plaintiffs / respondents are not a party. Therefore, it will not bind on them.

3. In respect of the suit property already a compromise decree was arrived in O.S.No.777 of 2013. But in that case, the present plaintiff / respondents remains exparte. Thereafter, they were given up and a compromise decree was recorded among the available parties. Therefore, the



petitioner has no locus standi to file the Interlocutory Application as there is no cause of action. On that ground the application was rejected.

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4. However, as stated by the Trial Court while rejecting the application that the in earlier compromise decree the respondents were not a party. Now the respondents have filed a Suit in O.S.No.243 of 2018 to declare the decree passed in O.S.No.777 of 2013 dated 05.04.2014 as null and void and to be set aside.

5. Therefore, this Court is of the view that if at all the petitioner is aggrieved, she has to workout her remedy before the Trial Court as the maintainability of the claim is subject to the mixed question of law and the same can be decided only through adjudication of documents and evidences. Therefore, there is no merit available in this case. However, the suit was filed in the year 2016 and already 5 years has lapsed. Therefore, the Trial Court is directed to dispose of the case as early as possible.



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6. With the above direction, this Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

28.11.2023

Jeni
Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No

To

The District Munsif-Cum-Judicial Magistrate,
Vazhapadi, Salem District.



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C.R.P.No.4084 of



T.V.THAMILSELVI, J.

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