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C.R.P. No.4191 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2023

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No. 4191 of 2023
and
C.M.P. No. 25522 of 2023

1. V.M.Devarajan
2. Rajeshwari
3. Dinakaran

... Petitioners

Versus

V.Suresh

.. Respondent

PRAYER : Civil Revision Petition is filed under Art. 227 of Constitution of India, praying to set aside the fair and decreetal order dated 07.08.2023 made in I.A.No.1 of 2023 in O.S.No.218 of 2011 on the file of the learned Addl. Subordinate Judge, Kancheepuram.

For Petitioners : Mr.V.Manoharan



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ORDER

Challenging the impugned fair and decreetal order passed in I.A.No.1 of 2023 in O.S.No. 218 of 2011, on the file of learned Addl. Sub-Judge, Kancheepuram, the Revision Petitioners/defendants preferred this Civil Revision Petition.

2. Since the relief claimed challenging the order passed by the trial court, notice to the respondents is dispensed with.

3. Before the trial court, the Respondent/plaintiff filed an application in I.A.No.1 of 2023 under Order 6 Rule 17 of C.P.C. seeking to carry out necessary amendment in the plaint by amending pleadings as well as prayer in respect of 3rd defendant, who was impleaded subsequently during the pendency of proceedings and by way amendment, the plaintiff wanted to include the prayer for the relief of declaration of document viz., settlement deed executed by the 2nd defendant in favour of 3rd defendant vide document No.4418/2011 as null and void. That application was allowed by the trial judge holding that after impleading 3rd defendant, it is a consequential amendment, as such it is permissible under law. Challenging the said findings, the Revision Petitioners/defendants preferred this Civil Revision



Petition.

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4. The learned counsel for Revision Petitioners would submit that as per the amendment pleadings, the alleged document is of the year 2011, but the plaintiff has not taken any steps to make such a declaration immediately after filing the suit, but nearly about 10 years later, he came forward with the said prayer, as such is totally barred by limitation, since because at the time of filing the suit, he is well aware of the alleged document. Therefore, they prayed to set aside the findings of the trial judge.

5. Records perused. On perusal of records, it would reveals that the 3rd defendant is son of 2nd defendant, against whom, the 2nd defendant said to be executed the settlement deed in the year of 2011 in respect of the property, which is under dispute. Therefore, the 3rd defendant was impleaded subsequent to the proceedings and so, as a consequential relief, the necessity arose for the plaintiff to amend the pleadings. Hence, I do not find any irregularity in the order passed by the trial judge. However, the revision petitioners/defendants are entitled to raise such objections before the trial



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court during trial and the same can be decided by the trial judge after considering the evidence of both sides. With that observation, this Civil Revision Petition is dismissed as no merits. Furthermore, the trial judge is directed to complete the trial and dispose the case within a period of four months from the date of receipt of copy of this order, since the plaintiff is aged more than 70 years. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

24.11.2023

Index: Yes/No
Internet: Yes/No
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To

Addl. Sub-Judge,
Kancheepuram.



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T.V.THAMILSELVI, J.

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