



WEB COPY



CRP No.4135 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

Civil Revision Petition No.4135 of 2023
and
C.M.P. No. 25244 of 2023

1.D.Selvaraj
2.P.Venkatachalam
3.R.Balasubramanian

... Petitioners

Versus

V.Venkatachalam (died)

1.V.Loganathan
2.V.Meenakshi
3.N.P.Komarasamy

...Respondents

Civil Revision Petition filed Under Article 227 of the Constitution of India, praying to set aside the docket order in I.A.No.7 of 2023 in O.S.No.256 of 2016, on the file of the learned Additional Judge, Tiruppur dated 19.10.2023.

For Petitioners : Mr. V. Raghavachari, Senior Counsel
for Ms. V. Srimathi



CRP No.4135 of 2023

ORDER

WEB COPY The petitioners have filed this revision petition to set aside the docket order dated 19.10.2023 passed in I.A. No. 7 of 2023 in O.S. No. 256 of 2016, on the file of the learned Additional Judge, Tiruppur

2. Heard, Mr. V. Raghavachari, learned Senior Counsel, for Ms. V. Srimathi, learned counsel for the petitioners and perused the materials available on record.

3. The plaintiffs/respondents herein have filed a suit in O.S. No. 256 of 2016 for the relief of cancellation of sale deed obtained by the defendants 1 to 3 from them viz; sale deed dated 13.05.2013 (registered as Document No.1407/2013 on the file of the Sub-Registrar, Kunnathur) by declaring the same is nominal, void, without consideration, not intended to acted upon and vitiated by fraud and obtained by coercion and undue influence and will not convey any rights to defendants 1 to 3 as well as the subsequent sale deed dated 24.06.2014, executed by the defendants 1 and 2 in respect of item - 1 and by the 3rd defendant in respect of item - 2 of the suit property, in favour of the 4th defendant and other consequential reliefs.



4. The defendants filed their written statement in the suit. Now the trial has begun during which P.W.1 was examined. At this stage, the revision petitioners/defendants 1 to 3 have filed an I.A. No. 7 of 2023 under Rule 75 of the Civil Rules of practice, against the order passed by the II Additional District Judge (FAC), Tiruppur in O.S. No. 256 of 2016, dated 19.10.2023, which reads as follows:

" This petition filed by the petitioners/ defendants 1 to 3 U/R CRP to send for the Original Report filed in RCS.No.1 of 2018 dated 03.02.2018 filed in Crime No.60 of 2014 by the DCB, Tiruppur, Petitioners have sought for to send for as they need for further Cross examination of P.W.1. Firstly P.W.1 Cross examination already closed and the case is in the stage of Plaintiffs side further evidence and proof affidavit of P.W.2 to 4 also already filed on 12.10.2023. Secondly when already the Police has filed Final Report in a Crime No then Original Report will be available only in the Court and not with the Police. So this petition was returned on 05.10.2023. Without applying for certified copies the petitioners have again filed this petition stating that they do not know the proper Court. The petitioners sought to have taken certified copies even before and not after 9 years, when they know that Civil Suit is pending against them in 2016 itself. Further, even if those records are produced statements given before the Police is not admissible in evidence before this Court. So this petition stands rejected."

Aggrieved by the said order, the revision petitioners have preferred this revision petition.

5. The learned Senior counsel for the petitioners submitted that the revision petitioners have made several efforts to obtain the documents from the



CRP No.4135 of 2023

District Crime Branch, Tiruppur but they were unable to get it. Thereafter, they approached the Court to send for all those documents. But the learned trial Judge erroneously rejected it on the ground that already complaint was pending before the District Crime Branch, Tirupur, in Crime No 60 of 2014, in respect of the suit property. There was a first information report registered against all the defendants including the revision petitioners on 24.09.2014. After investigation, according to the revision petitioners it was closed. Now they want to produce those records on their side to prove their defence.

6. Admittedly, the 1st defendant is aged about 66 years, who is a Senior Citizen. If opportunity is not given to the defendants to produce the records, then, their valuable right of defence will be affected. The complaint was originally filed with the Land Grabbing Special Wing and subsequently it was transferred to DCB, Tiruppur as FIR. No. 60 of 2014 on 24.09.2014. Later, the case was closed by referred charged sheet by DCB, Tiruppur. Therefore, calling for those documents would not cause any prejudice to either side. Therefore, the findings given by the learned Additional Judge, Tiruppur dated 19.10.2023 in I.A.No.7 of 2023 in O.S.No.256 of 2016 is set aside and the Interlocutory application is allowed.



CRP No.4135 of 2023

WEB COPY 7. Accordingly, this Civil Revision Petition is Allowed. However the parties are directed to approach the Court below with necessary particulars. Consequently, connected miscellaneous petition is closed. No costs.

20.11.2023

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation: Yes/No

rri

Note: Issue Order copy today (20/11/2023).

To

1. The Additional Judge, Tiruppur.
2. The Section Officer,
VR-Section, High Court of Madras.



WEB COPY



CRP No.4135 of 2023

T.V.THAMILSELVI, J.

rri

Civil Revision Petition No.4135 of 2023
and
C.M.P. No. 25244 of 2023

20.11.2023