



C.R.P(PD)No.4055 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2023

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Civil Revision Petition (NPD) No.4055 of 2019

1.S.Thamaraiselvi

2.Y.Sarguna

3.K.Jayabalaji

... Petitioners

Vs.

1.R.Anantharaman

2.R.Harikrishnan

3.R.Vivekanandan

4.R.Vijayasimman

5.R.Gokularajan

6.V.Bharathi

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India praying to allow the Civil Revision Petition and set aside the order of rejection of plaint dated 12.09.2019 made in unnumbered suit in O.S.Sr.No.3124 of 2019 on the file of District Munsif cum Judicial Magistrate Court, Sriperumbudur consequently directs the Hon'ble Munsif Court, Sriperumbudur to number the plaint.



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For Petitioners : Mr.M.Vinoth

For Respondents 1 to 4 : Mr.A.P.Pasupathy
for Mr.K.Raju

ORDER

This Civil Revision Petition has been filed to allow the Civil Revision Petition and set aside the order of rejection of plaint dated 12.09.2019 made in unnumbered suit in O.S.Sr.No.3124 of 2019 on the file of District Munsif cum Judicial Magistrate Court, Sriperumbudur consequently directs the Hon'ble Munsif Court, Sriperumbudur to number the plaint.

2. The revision petitioners are the plaintiffs. Learned counsel for the petitioners submitted that the suit schedule property is an ancestral joint family property and originally belonged to one Krishnapillai and his son Govindarajulu pillai. Later, the said Govindarajulu pillai and his three sons had entered into a partition and the same was registered before the Sub-Registrar Office, Sriperumbudur as document No.2346 of 1972 dated 25.09.1972. Further, the suit schedule property and other properties were



allotted as D schedule to one Kannan, who is one of the sons of aforesaid Govindarajalu pillai and father of the revision petitioners. After the demise of G.Kannan, his legal heirs, who is the revision petitioners herein have entered the property to do some work on 07.07.2019 and it was objected by the respondents, who are the legal heirs of G.Ranganatha Pillai stating that they are in possession of the property by virtue of the sale deed executed by late G.Kannan in favour of the respondents' father G. Ranganatha Pillai vide document No.9877 of 1983 dated 23.11.1983 on the file of Sub Registrar Office, Sriperumbudur.

3. Learned counsel for the petitioner would further submit that the sale deed document was executed in the year 1983 and at that point of time, the revision petitioners were minors and the said document was executed by their father, who is the natural guardian in favour of the respondents' father G.Ranganathan Pillai. Thereafter, on 26.08.2019, the revision petitioners have filed an unnumbered suit in O.S.Sr.No.3124 of 2019, to declare the sale deed dated 23.11.1983 registered as document No.9877 of 1983 on the file of the Sub Registrar Office, Sriperumbudur as null and void and for permanent



injunction and restraining the respondents from interfering with the peaceful possession and enjoyment of the suit property and the District Munsif cum Judicial Magistrate, Sriperumbadur has returned the plaint by issuing the following order dated 12.09.2019. For better appreciation, the said order is extracted hereunder:

“As per the Section 60 of the Limitation Act, a minor when attains majority, from the date of attaining the majority within three years he or she will have to question any property transaction executed during their minority by his or her guardian. The plaintiffs 1 to 3, who were 16 years, 14 years and 12 years respectively as on the date of execution of the said sale deed and they have not filed the suit within three years from the date of attaining the majority. Further, the plaintiffs have not submitted any documents to show that they are in continuous possession of the suit property till date, even after the execution of the sale deed in 1983. The plaintiffs 1 to 3 are now 52, 50 and 47 years old respectively as per the plaint averment. Since the sale deed having been executed in the year 1983, it is unacceptable that the possession of the property were not given to the purchasers therein and is with the plaintiffs till date and without any documents to support the same.

Though the plaintiffs claim that they came to know about the sale transaction only on verification of the encumbrance certificate on 12.07.2019 and 18.07.2019 as per the section 60 of limitation act, the period of limitation runs from the date of attaining majority and not from the date of knowledge.



Considering the above, this suit is rejected as barred by limitation.”

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Aggrieved over by the aforesaid order dated 12.09.2019, the petitioner has come forward with the present Civil Revision Petition.

4. Per contra learned counsel appearing for the respondents submitted that the revision petitioners have to file a suit to declare the sale deed document No.9877 of 1983 as null and void and not for suit for declaration. Moreover, the revision petitioners attempted to overturn the validly executed sale deed dated 23.11.1983 in favour of the father of the respondents herein on the ground that such sale deed has been executed without any legal necessity and it deprived the share of the minor revision petitioners. The Trial Court has also rendered a specific findings that the age of the revision petitioners were 16, 14 and 12 years at the time of execution of the sale deed dated 22.11.1983 and if at all, they ought to have filed a suit in the year 1990 when all of them attained the majority however, the present suit is filed in the year 2019 i.e., after 29 years. At this stage, the revision petitioners cannot be permitted to set the clock back.

5. Learned counsel appearing for the respondents would further submit



that from the year 1983, the father of the respondents and the respondents were in possession of the suit property and other properties mentioned in the sale deed document No.9877 of 1983 and the father of the respondents had developed and maintained the suit property and other properties and paid the property tax properly.

6. Learned counsel appearing for the respondents would further submit that if a suit of this nature is entertained, it would undoubtedly set a wrong precedent that any one who has a vexatious interest would be embolden to file such a suit to harass the other side to make the justice delivery system a mockery. In the sale deed it would indicate that there is a specific recital that the suit property was sold in favour of respondents' father for a family necessity. In any event, after 29 years from the date of attaining majority, the revision petitioners cannot be permitted to maintain a present suit. He further submitted that the present suit is hit by the provisions of Article 58 and 60 of the Limitation Act.

7. Learned counsel appearing for the respondents has also relied on the



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judgment of the Hon'ble Supreme Court of India in ***Civil Appeal No.1782 of 2019*** in the case of ***Murugan & Others Vs., Kesava Gounder (ded) and their legal heirs and others.***

8. Heard the learned counsel on either side and perused the materials available on record.

9. In the case on hand, the suit was filed by the revision petitioners to declare the sale deed document No.9877 of 1983 dated 23.11.1983 as null and void, which was executed by their father namely late G.Kannan in favour of the respondents father namely late G.Ranganathan Pillai on the file of Sub Registrar Office, Sriperumbudur. When the sale deed was executed all the revision petitioners were minors and they are of the age 16, 14 and 12 respectively. Further, the revision petitioners have attained the age of majority in the year 1986 and on the date of filing the said suit, the age of the revision petitioners are 52, 50 and 47 respectively. At this juncture, it is pertinent to extract Section 60 of the Limitation Act and the same is reads as



follows:

Section 60 of the Limitation Act:

Description of suit	Period of Limitation	Time from which period begins to run
60. To set aside a transfer of property made by the guardian of a ward—		
(a) by the ward who has attained majority	Three years	When the ward attains majority
(b) by the ward's legal representative-		
(I) when the ward dies within three years from the date of attaining majority.	Three years	When the ward attains majority
(ii) when the ward dies before attaining majority	Three years	When the ward dies

10. According to the above provision, a minor when attains majority, from the date of attaining the majority within three years he or she will have to question any property transaction executed during his or her minority by his or her natural guardian. On relying the above provision, the Trial Court has rightly rejected the plaint dated 26.08.2019 filed by the revision petitioners and as per the Trial Court order dated 12.09.2019, there is no



evidence to substantiate the claim of the revision petitioners that they are in possession of the suit schedule property.

11. Hence, the Trial Court has rightly rejected the plaint on the following grounds:

(i) as per the Section 60 of the Limitation Act, the suit has to be filed within a period of three years from the date of attaining majority i.e., in the year 1986.

(ii) no documents to prove that they are in possession of the suit schedule property.

(iii) the sale deed document is of the year 1983 and it is not believable and they are still in possession of the property as on the date of filing the suit on 26.08.2019 that is after 29 years.

(iv) the revision petitioners came to know about the sale deed only while obtaining the Encumbrance Certificate dated 12.07.2019 and 18.07.2019 is also not acceptable to the Court.

12. Hence, this Court is of the considered view that the Trial Court has



rightly rejected the plaint filed by the revision petitioners.

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13. Learned counsel for the petitioners has placed reliance on the judgment passed by this Court in support of their contentions, whereas, the learned counsel appearing for the respondents has relied on the judgment passed by the Hon'ble Supreme Court of India in ***Civil Appeal No.1782 of 2019*** in the case of ***Murugan & Others Vs., Kesava Gounder (dead) and their legal heirs and others***. In the above judgment, it was held as follows:

“29. The Limitation Act, 1963 has been enacted by the Parliament after the enactment of Hindu Minority and Guardianship Act, 1956. Article 60 of the limitation act, 1963 which provides for limitation “suits relating to decrees and instruments”. The limitation act contemplates suit to set aside a transfer of property made by the guardian award for which, the limitation has contemplated as three years. Article 60 of the limitation Act also provides for the limitation of a suit but also clearly indicates that to set aside a transfer of the property made by the guardian of a ward a suit is contemplated.”

14. In view of the above factual matrix of the case and the ratio laid down by the Hon'ble Supreme Court of India, this Court is not inclined to interfere with the order of rejection of the plaint dated 12.09.2019 passed by



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the learned District Munsif cum Judicial Magistrate Court, Sriperumbudur.

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15. In the result, this Civil Revision Petition stands dismissed. No costs.

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Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

J.SATHYA NARAYANA PRASAD,J.

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