



S.A.No.213 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2023

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THE HONOURABLE MR.JUSTICE N.SESHASAYEE

S.A.No.213 of 2023
and C.M.P.Nos.6102 and 6103 of 2023

Lamour Pavounamballe

... Appellant

Vs.

1.Datta Mukerjee

2.Violin Michel

... Respondents

PRAYER: Appeal filed under Section 100 of Civil Procedure Code, seeking to set aside the Judgment and Decree dated 25.07.2019 made in A.S.No.18 of 2018 on the file of the Court of the learned Principal Subordinate Judge, Puducherry, confirming the judgment and decree dated 11.01.2018 in O.S.No.862 of 2011 on the file of the Court of the I Additional District Munsif at Puducherry.

For appellant : Mr.S.Subramanian



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JUDGMENT

The plaintiff, who has lost a suit for declaration that a certain gift cum settlement deed dated 20.03.2003, marked as Ex.A11 before the trial Court, executed in favour of defendants 1 and 2 both are whom are her daughters, falling fraudulent *void abinitio* is non-est in the eye of law.

2.According to the plaintiff, the property originally belonged to her mother, that on her demise it devolved on her, that she has two daughters and two sons of whom except the 1st defendant others are now permanent residents of France, that she was duped into executing Ex.A11 settlement deed on a representation that what she was signing were essentially some papers for obtaining passport.

3.The first defendant remained exparte. The suit was resisted by the 2nd defendant. According to her, the suit was engineered by 1st defendant, that inasmuch as the plaintiff has admitted the very execution of the settlement deed she ought to have filed a suit for cancellation of the same and the same should have been done within three years from the date of execution, but the



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suit was laid some eight years thereafter. She also has given an undertaking in her written statement that she would not disturb the possession of her mother, the plaintiff, during her life time.

4.The matter went to trial, before which the plaintiff examined herself and also produced some documents. The second defendant did not adduce any oral or documentary evidence. In her cross examination, the plaintiff as P.W.1, has deposed certain facts quite contrary to her pleadings. She would state that she had executed Ex.A11 on the belief that she would be cared during her life time. It is not her case in the plaint that she was not cared by the settlees under Ex.A11. If that being so, different consideration would have prevailed. As already indicated, her case was candid that she was duped into signing certain papers, which she later learnt was a settlement deed. Interestingly enough, to some of the questions pertaining to the very institution of the suit she would reply that only 1st defendant knew about that, and that precisely was the allegation of the 2nd defendant in the written statement.



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N.SESHASAYEE, J.

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5.It is very apparent that 1st defendant is the '*suthradhari*' behind this litigation and mother is essentially used as a '*Shikandi*' by 1st defendant. This Court is not a casino for people to gamble on its time and energy. This Court does not find that this case involved any substantial question of law and hence does not find any need to admit it.

6.This second appeal stands dismissed accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

21.03.2023

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Index : yes / no Internet : yes / no
Speaking / Non Speaking order

To.

1. The Principal Subordinate Judge
Puducherry

2.The I Additional District Munsif
Puducherry.

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