



C.R.P(MD)No.932 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.04.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.932 of 2023

and

C.M.P(MD)No.4378 of 2023

Ranjith

... Petitioner/Petitioner/
Defendant

Vs.

Vennila

... Respondent/Respondent/
Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order, dated 23.12.2022 passed in I.A.No.254 of 2022 in O.S.No.13 of 2022 on the file of the learned Additional District Court, Pudukkottai.

For Petitioner : Mr.A.Mohan

ORDER

The petitioner is aggrieved by the impugned order, dated 23.12.2022 passed by the trial Court in I.A.No.254 of 2022 in O.S.No.13 of 2022. The said suit has been filed for declining family arrangement in respect of Schedule B property as null and void.



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2. It is the specific case of the petitioner is that the petitioner is the son of the third wife and late.Duraisamy, whereas, the respondent/plaintiff is the daughter of the first wife. According to the petitioner, the suit is barred by law and therefore, nothing but an abuse of proceedings to unsettle the non-settled possession. Hence, the petitioner filed an application under Order 7 Rule 11. The trial Court has committed an error in rejecting the application filed by the petitioner.

3. I have considered the arguments advanced by the learned counsel for the petitioner.

4. According to the petitioner, the petitioner's father had settled the property in favour of the petitioner in the year 2010. Therefore, the suit was barred by law. However, copy of the documents has not been filed by the petitioner. Whether the suit is barred under law in terms of Article 58 of the Limitation Act or not can be decided only at the final stage after the evidence are adduced before the trial Court. It is not open for the defendant to scuttle the proceedings by simply stating that the suit is time barred by citing the limitation Act as the limitation is always



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mixed question of fact and law. Therefore, the suit cannot be scuttled by filing an application under Order 7 Rule 11 of C.P.C.

5. In view of the above, the present Civil Revision Petition stands dismissed. The trial Court is directed to proceed with the trial as expeditiously as possible and endeavour to resolve the dispute between them preferably within a period of 15 months from the date of receipt of copy of this order on merits and in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

05.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

- 1.The Additional District Court,
Pudukkottai.
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

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