



C.R.P(MD)No.1035 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.1035 of 2022

and

C.M.P(MD)No.4123 of 2022

1.G.Vasanthi

2.R.Ganesan

... Petitioners/Defendants 1&2

-VS-

1.Indirani

2.P.Rajan

3.Muthukrishnan

4.Muruganandam

5.Sahaya Clara Mary

6.Antony Sahaya Daisy Rani

7.V.P.Ponnar

8.Gnana Rathinam

9.Nagaraj

10.Justin Alexander

11.Sonia Mary

12.Christober Raj

13.Subarna

14.M.Jeeindamary

... 1st Respondent/Plaintiff

... Respondents No.2 to 14/
Defendants No.3 to 15



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PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to strike-off the plaint in O.S.No.373 of 2021 on the file of the learned Principal Sub-Court, Dindigul and allow the above civil revision petition.

For Petitioner : Mr.J.Lawrance
For R1 to R4 : No appearance
For R5 to R14 : Given up

ORDER

The petitioners herein are the defendants before the trial Court in O.S.No. 373 of 2021. The first respondent has filed the above suit for the following reliefs:

“a)Declaring that the sale deed executed by the plaintiff's father to 1st defendant on 16.05.2000 vide document No.1365/2000 Registered before the S.R.O. Nagal Naickampatty Dindigul, is null and void.

b)Declaring that the sale deed executed by the plaintiff's father to the 1st defendant on 16.05.2000 vide document No.1844/2000 Registered before the S.R.O Nagal Naickampatty, Dindigul is null and void.

c)Granting permanent injunction restraining the defendants their men and agents in any way alienating the suit property in any manner.



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d)direct the defendants to pay the costs of this suit.

e)And may grant such other further reliefs as this Court may deem fit and proper to the circumstances of the case and thus render justice.”

2.The cause of action for the suit is read as under:

“24.The cause of action for the suit arose on 24.05.1973 and on 05.03.1980 when the suit property were acquired in the name of the plaintiff's father as the 'Karta' of the family and on 16.05.2000, when the 1st defendant got sale deeds from the plaintiff's father and on 02.05.2013 when the so called sale deeds brought to the knowledge of the plaintiffs and on 03.05.2013 when the plaintiff lodged a complaint before the C.M Cell regarding the Land Grab and there is no action and no subsequent dates to till dated when the 1st defendant along with 2nd defendant in collusion with 4th defendant alienating the suit property and the suit property is situated at Adiyanoothu Village, Dindigul Taluk, which is within the jurisdiction of this Court.”

3.The specific case of the petitioners is that the petitioners have purchased the property in the year 2000 by two separate sale deeds mentioned above. Therefore, the instant suit filed by the first respondent is barred by limitation and



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therefore, the same is liable to be struck off from the file of the Court, by an order of this Court under Article 227 of the Constitution of India.

4.It is further submitted that the suit is nothing, but an abuse of proceedings. It is submitted that for an identical relief, the first respondent has also filed a suit in O.S.No.434 of 2018. However, without obtaining leave of the Court from the District Munsif, Dindigul, under Order VII Rule 1 of C.P.C., the suit in O.S.No.373 of 2021 has been filed. In the aforesaid suit also, the petitioners are the defendants 2 and 3 and hence, the suit in O.S.No.373 of 2021 is liable to be struck off.

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

6.Though notice has been served on the contesting first respondent, there is no representation on behalf of the first respondent. The learned counsel appearing for the petitioners has also filed a memo dated 20.02.2023 for dispensing with the notice on the respondents No.6,8,9,11,12 & 13, who are the subsequent purchasers of the suit property from the petitioners.



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7.A reading of the plaint indicates that the first respondent has filed a suit in O.S.No.501 of 2003 before the II Additional Subordinate Court, Trichy, for partition against her father and her brothers. During the pendency of the suit, her father died on 06.08.2003.

8.The learned counsel appearing for the petitioners fairly concealed that a preliminary decree has already been passed in the aforesaid proceedings. Thus, it was open for the petitioner to implead themselves as parties in the suit proceedings to defend their case. The present suit has been filed not to initiate any further alienation and to declare the sale deed executed by the respondents' father. Under these circumstances, I do not find any merit in the present C.R.P seeking a prayer for striking off the plaint in O.S.No.373 of 2021.

9.In the result, the Civil Revision Petition is dismissed. No costs. However, the petitioner is at liberty to work out his remedy in the manner known to law. Consequently, connected miscellaneous petition is closed.

21.03.2023



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

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C.SARAVANAN, J.

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To:

- 1.The Principal Sub-Court,
Dindigul.
- 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

Order made in

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