



CRP (MD) Nos.1381 and 1382 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	22.08.2023
Pronounced on	13.12.2023

CORAM

THE HON'BLE MRS. JUSTICE K.GOVINDARAJAN THILAKAVADI

C.R.P.(MD) Nos.1381 and 1382 of 2022
and
C.M.P(MD)No.5726 of 2022

V.Panchavarnam

... Revision Petitioner in
both CRPs

Versus

1.P.Jothi

2.V.Kannan

... Respondents in
both CRPs

Prayer in C.R.P.(MD)No.1381 of 2022 : The Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the judgment and decree made in I.A.No.509 of 2021 in O.S.No.234 of 2018 dated 06.04.2022 on the file of the VI Additional District Judge at Madurai.



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Prayer in C.R.P.(MD)No.1382 of 2022 : The Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the judgment and decree made in I.A.No.510 of 2021 in O.S.No.234 of 2018 dated 06.04.2022 on the file of the VI Additional District Judge at Madurai.

For Revision Petitioner : Mr.R.Murali
(in both CRPs)

For Respondents : Mr.R.Velmurugan
(in both CRPs)

COMMON ORDER

These Civil Revision Petitions are preferred as against the order passed in I.A.Nos.509 and 510 of 2021 in O.S.No.234 of 2018, dated 06.04.2022 on the file of the VI Additional District Judge, Madurai.

2. According to the Revision Petitioner/Plaintiff, the Revision Petitioner filed the above suit in O.S.No.234 of 2018 for declaration and mandatory injunction against the Respondents/Defendants. In this suit, the Revision Petitioner sought for relief of declaration to declare the unilateral cancellation of the gift deed dated 06.08.2019 as null and void. The 1st and 2nd Respondents/Defendants entered appearance and filed their written statement.



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3. The 1st and 2nd Respondents are the children born through the 1st wife of the Revision Petitioner's husband namely C.Veeraiah. The mother of the 1st and 2nd Respondents died after giving birth to the 2nd child and thereafter, the said C.Veeraiah married the Revision Petitioner for taking care of the 1st and 2nd Respondents from their childhood. Out of the said wedlock, the Revision Petitioner and her husband had given birth to five children. Since the 2nd Respondent got married against the will of the Revision Petitioner's husband, the relationship between the 2nd Respondent and her father had become estranged. Thereafter, the 2nd Respondent issued legal notice and also made a police complaint demanding partition in the suit properties. In the written statement filed by the 2nd Respondent, it is mentioned that the Revision Petitioner is not a legally wedded wife of her father C.Veeraiah, which is incorrect. The Revision Petitioner is the legal wife of C.Veeraiah. The suit properties are the self acquired properties of her husband and the same were settled through a registered settlement deed in favour of the Revision Petitioner and from then onwards, the Revision Petitioner is in possession and enjoyment of the suit properties. It is stated



that the cancellation of settlement deed was made on ill advice of her husband.

4. Even in the legal notices, the Respondents never disputed about the marital status of the Revision Petitioner. Therefore, the registered settlement deed cannot be canceled by way of unilateral cancellation. As per the Order VI Rule 16 of Code of Civil Procedure, the Court is having power at any stage of the process to struck out the unnecessary, scandalous, frivolous or vexatious pleadings both in the gift deed as well as in the cancellation deed. The status of the Revision Petitioner as the wife of C.Veeraiah was not at all disputed. The Trial Court based on such pleadings in the written statement framed an issue as issue No.4 whether the Revision Petitioner is the wife of the deceased C.Veeraiah which is irrelevant to the present claim made by the Revision Petitioner in this suit. Hence, the Revision petitioner filed two applications in I.A.Nos.509 and 510 of 2021 respectively.



5. In I.A.No.509 of 2021, it was prayed to struck of the malicious allegations contained in the written statement by invoking Order VI Rule 16 of Code of Civil Procedure and in another I.A.No.510 of 2021, it was prayed to strike out issue No.4. Along with the applications, the Revision Petitioner has marked as Ex.P.1 to Ex.P.5, which are the notices exchanged between the parties, the paper publication and receipt issued by the Crime Branch of Madurai. However, the Trial Court without appreciating the applications in proper perspective, dismissed the above applications against which the present Revision Petitions are preferred.

6. The learned counsel appearing for the Revision Petitioner would submit that the Trial Court ought to have considered the documents marked on the side of the Revision Petitioner as Ex.P.1 to Ex.P.5. But erroneously held that no documents were marked on the side of the Revision Petitioner. The Trial Court failed to consider that the Respondents herein with malicious intention in order to abuse the Revision Petitioner have made the above scandalous statement against the Revision Petitioner in the written statement. The Trial Court failed to consider that once the settlement deed has



been executed and registered, the same cannot be canceled unilaterally. The Trial Court failed to appreciate the judgment of the Hon'ble Supreme Court reported in **(2016) 15 SCC 219**. Without any discussions about the above citation rejected the claim of the Revision Petitioner. Hence, the order passed in I.A.Nos.509 and 510 of 2021 in O.S.No.234 of 2018 dated 06.04.2022 on the file of the VI Additional District Judge, Madurai is liable to be set aside.

7. On the other hand, the learned counsel appearing for the Respondents would contend that the suit properties are the self acquired properties of the father of 1st and 2nd Respondents namely C.Veeraiah and it is strictly denied that the said C.Veeraiah is not the husband of the Revision Petitioner. The factum of marriage between the said C.Veeraiah and the Revision Petitioner was not explained in the plaint and no particulars regarding the alleged marriage between the Revision Petitioner and the said C.Veeraiah was given in the plaint. Even during the lifetime of one Kaliammal who is the legally wedded wife of C.Veeraiah, the Revision Petitioner got illicit intimacy with the said C.Veeraiah and when the same was brought to the knowledge of Kaliammal, it was objected by her and the



said Kaliammal died in December 1968. The Revision Petitioner was already married to her maternal uncle and had two children namely one Latha and one Seenivasan, who are the 3rd and 4th defendants in the suit.

8. When the Revision Petitioner entered into the house of Kaliammal along with her two children, the relatives and elders of the family arranged the marriage of C.Veeraiah with one Shanmugalakshmi in October 1969. On seeing the illicit intimacy of C.Veeraiah with the Revision Petitioner, the said marriage was dissolved by way of registered document dated 06.07.1970. Again in the year 1971, the said C.Veeraiah married one Sivagami and she was also unable to continue her marital relationship with her husband due to the interference of the Revision Petitioner who made her to leave the matrimonial home within short period from the date of her marriage. Taking advantage of the above events, the Revision Petitioner continued her illicit intimacy with C.Veeraiah and started to live along with C.Veeraiah as his wife from the year 1971.

9. Hence, the Revision Petitioner is bound to prove that she is



the legally wedded wife of C.Veeraiah and further more it is submitted that the suit properties are the self acquired properties of their father C.Veeraiah and he executed the settlement deed dated 21.05.1969 in respect of the suit properties in favour of his two children namely the 1st and 2nd Defendants, who are the 1st and 2nd Respondents herein. Thereafter, the 2nd Respondent executed the release deed dated 16.11.1981 in favour of the 1st Respondent and therefore, the 1st Respondent became the absolute owner of the entire property covered under the settlement deed dated 21.05.1969. From the date of release deed, the said C.Veeraiah also purchased another house property as guardian of the minor Defendants namely 2nd, 4th, 6th and 7th Defendants.

10. The Revision Petitioner having knowledge about the possession of the original documents, after the death of C.Veeraiah, by suppressing the same filed the above suit with ulterior motive. The Revision Petitioner has no independent income to contribute for the construction and renovation made in the suit properties. The father of the Respondents alone educated his children and performed the marriage of his children out of his own income. The 1st Respondent alone is in exclusive and effective



possession and enjoyment of the suit property by paying the property tax and other taxes in his name till date. While so, at the instance of the Revision Petitioner, the father of the 1st Respondent after a lapse of 23 years canceled the settlement deed dated 21.05.1969 by executing the cancellation deed dated 19.03.1992 with ulterior motive and the same is not valid under the eye of law. The said cancellation deed will not bind upon the 1st Respondent. The Revision Petitioner compelled C.Veeraiah to execute the registered settlement deed in her favour.

11. Accordingly, the said C.Veeraiah executed the registered the gift deed dated 05.02.2009 in favour of the Revision Petitioner. But the possession was never handed over to her at any point of time. The Revision Petitioner has never accepted the alleged gift deed. Thereafter, the father of the Respondents C.Veeraiah felt that the settlement deed was executed under compulsion and undue influence. Therefore, he canceled the same on 06.08.2009 under the document No.5656/2009. Since the factum of the marriage between the Revision Petitioner and the father of the Respondents is doubtful and the same has to be proved by the Revision Petitioner, it has



become necessary for the Revision Petitioner to state all those facts in the written statement and the Trial Court also rightly framed the issue in this regard. Therefore, no interference calls for in the impugned order passed by the Trial Court.

12. Heard on both sides and perused the records.

13. On perusal of records, it is not in dispute that the suit properties are the self acquired properties of father of the Respondents. The Revision Petitioner claiming to be the 2nd wife of the said C.Veeraiah who is the father of Respondents, filed the above suit for declaring the cancellation deed executed by the said C.Veeraiah in favour of the Respondents as null and void. Since the Revision Petitioner claims to be the 2nd wife of the said C.Veeraiah, it is obligatory on her part to establish the factum of marriage took place between herself and the father of the Respondents. The Respondents in their written statement has narrated so many incidents that she only had illicit intimacy with their father.



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14. Therefore, the Trial Court has rightly framed the issues with regard to the marital status of the Revision Petitioner. Moreover, it cannot be said that the averments made in the written statement is scandalous and frivolous and therefore, the same cannot be struck off as prayed by the Revision Petitioner. Therefore, the orders passed by the Trial Court is confirmed.

15. Accordingly, these Civil Revision Petitions are dismissed.
No costs. Consequently, connected miscellaneous petition is closed.

13. 12.2023

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Index:Yes/No
Speaking Order : Yes/No

To

The VI Additional District Judge,
Madurai.

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K.GOVINDARAJAN THILAKAVADI,J.

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PRE- DELIVERY ORDER MADE IN

C.R.P.(MD) Nos.1381 and 1382 of 2022
and
C.M.P(MD)No.5726 of 2022

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