



C.R.P.(MD)No.1514 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P.(MD)No.1514 of 2022

and

C.M.P.(MD)No.6394 of 2022

K.Murali

... Petitioner / Petitioner / 5th Defendant
-Vs-

1.Anitha

2.Thilagavathi

... Respondents 1 & 2 / Respondents 1 &2/
Plaintiffs

3.Mohammed Ali @ P.M.Chinna Bava

Rep. by his Power Agent, Abdul Haji

4.The District Collector,

Collector Office, Tiruchirappalli District.

5.The Sub-Registrar,

Sub-Registrar's Office,

Srirangam, Tiruchirappalli District.

6.M.Karunanithi

... Respondents 3 to 6 / Respondents 3 to 6
/ Defendants 1 to 4



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PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India praying to set aside the order dated 01.03.2022 made in I.A.No.1 of 2021 in O.S.No.426 of 2018 on the file of the Subordinate Court, Lalgudi.

For Petitioner : Ms.K.Vidya
For R1 : No Appearance
For R2 : Mr.K.R.Kishore Ram
For R3 : Mr.S.Atham Ali
For R4 & R5 : Mr.G.Sivaraja,
Government Advocate

ORDER

The order dated 01.03.2022 passed in I.A.No.1 of 2021 in O.S.No.426 of 2018 on the file of the Subordinate Court, Lalgudi, dismissing the application filed by the petitioner to set aside the *ex-parte* order dated 28.08.2015, is under challenge in this Civil Revision Petition.

2.The learned counsel appearing for the petitioner would submit that the suit is still pending before the Sub Court, Lalgudi and is yet to be argued. That apart, it is submitted that the respondents 1 and 2, who are the plaintiffs before the trial Court, have not taken any steps for bringing the legal representatives of



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the 1st defendant on record and therefore, no prejudice would be caused to the respondents 1 and 2 (Plaintiffs), if the said application is allowed.

3.The learned counsel appearing for the 2nd respondent submits that the 1st defendant died only on 02.01.2019 ie., after filing the written statement and after the trial is commenced. It is further submitted that the petitioner / 5th defendant was set *ex-parte* on 21.01.2014 and thereafter, an appropriate application was filed to set aside the order, setting the petitioner herein as *ex-parte*, which was allowed on 12.06.2015 and since the petitioner once again failed to appear, he was set *ex-parte* on 28.08.2015. Thereafter, the suit in O.S.No.926 of 2013 was transferred from Sub-Court, Trichy to Sub-Court, Lalgudi and renumbered as O.S.No.426 of 2018, wherein the petitioner / 5th defendant filed an application to set aside the *ex-parte* order dated 28.08.2015. It is further submitted that the affidavit filed by the petitioner before the trial Court is bereft of details. Therefore, the application filed by the petitioner has been rightly dismissed by the trial Court.



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4.I have considered the arguments advanced by the learned counsel for both sides.

5.The respondents 1 and 2 have filed the suit for declaration that the cancellation deed dated 01.07.1998 is void ab-initio, unenforceable and set aside the same, for granting mandatory injunction, restraining the 3rd defendant, Sub Registrar, Srirangam, to make necessary entries cancelling the said documents and for permanent injunction restraining the defendants 4 and 5 from interfering with the peaceful possession and enjoyment of the suit schedule property.

6.The petitioner, who is the 5th defendant in the suit, had purchased the property from the 4th defendant. The petitioner has a valuable right to defend the suit, as he has having documents, which was registered by the 4th defendant.

7.Considering the fact that the suit is still pending, I am inclined to interfere with the impugned order by directing the trial Court to take the written statement filed by the petitioner on record, frame suitable issues, complete the



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trial and pass judgment and decree in the suit in O.S.No.426 of 2018 (formerly O.S.No.926 of 2013 before the Sub Court, Trichy) filed by the respondents 1 and 2, as expeditiously as possible, preferably, within a period of twelve months from the date of receipt of a copy of this order.

8.In view of the above terms, this Civil Revision Petition is allowed.

No costs. Consequently, the connected miscellaneous petition is closed.

24.03.2023

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

MYR

To:

- 1.The Subordinate Court, Lalgudi.
- 2.The District Collector,
Collector Office, Tiruchirappalli District.



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C.SARAVANAN, J.

MYR

3.The Sub-Registrar,
Sub-Registrar's Office,
Srirangam, Tiruchirappalli District.

4.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

Order made in
C.R.P.(MD)No.1514 of 2022
and
CMP(MD)No.6394 of 2022

Dated:

24.03.2023