



C.R.P.No.43 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.43 of 2023
and C.M.P.No.2903 of 2023

K.Prema

... Petitioner

-Vs-

1.M.Mohan

2.The Special Tahsildar
(Land Acquisition)
SIPCOT Industrial Park
Appavoo Nagar
Dharmapuri District.

3.Special District Revenue Officer
SIPCOT Industrial Park
Appavoo Nagar
Dharmapuri District.

4.The District Collector
Collectorate
Dharmapuri District
Dharmapuri.

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to set aside the fair and decretal order dated 26.08.2022 made in I.A.No.1091 of 2022 in O.S.No.47 of 2021 on the file of the learned District Munsif Court, Dharmapuri.

For Petitioner	:	Mr.Ramanan for Mr.N.Manoharan
For Respondents	:	R1 - Not ready in notice Mr.R.Siddharth, Government Advocate for R2 to R4



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ORDER

This Civil Revision Petition arises against the order passed by the learned District Munsif Court at Dharmapuri in I.A.No.1091 of 2022 in O.S.No.47 of 2021 dated 26.08.2022.

For the sake of convenience, the parties are referred as to per their ranking in the suit.

2. The Civil Revision Petitioner is the first defendant in the suit. The suit has been presented by the first respondent herein seeking for declaration that the alleged sale deed dated 20.01.1988 said to have been executed by the father of the plaintiff in favour of the first defendant as null and void. He also sought for permanent injunction restraining the defendants 2 and 3 from disbursing the compensation amount to the first defendant and for a mandatory injunction to direct the defendants 2 and 3 to disburse the compensation amount to the plaintiff.

3. The case of the plaintiff is that his father Masilamani was benefitted with the suit property, to an extent of 4.03 acres, by way of a grant from the Government of Tamil Nadu. The said Masilamani passed away on 09.01.1997. On the death of the father, the plaintiff claims that he succeeded to the estate. He would allege that his father never executed a sale deed in favour of the first defendant and it is a fabricated document created for the purpose of receiving the compensation from defendants 2 and 3. Hence the suit.

4. On being served with summons, the first defendant who had already



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obtained a compensation on 18.02.2021, moved an application for rejection of plaint stating that the suit itself came to be presented 32 years after the first defendant had purchased the property from Masilamani.

5. After receipt of a counter from the plaintiff, the learned District Munsif dismissed the application stating whether the document is false and fabricated requires recording of evidence and the same cannot be gone into at the interlocutory stage. But, he would state that the plaint discloses a cause of action and therefore dismissed the application.

6. Challenging the same, the present civil revision petition has come up before this Court.

7. Heard Mr.Ramanan for Mr.N.Manoharan for the petitioner and Mr.R.Siddharth, Government Advocate for respondents 2 to 4 for the State respondents.

8. The plaintiff though served, has not entered appearance through counsel nor is he represented before the Court to oppose the revision.

9. Mr.Ramanan would submit that,



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- i. Though the plea of fraud has been raised by the plaintiff, the mandatory requirements of Order VI Rule 4 of CPC have not been followed.
- ii. Though the plaintiff has pleaded that he came to know about the sale deed only while applying for Encumbrance Certificate, the said certificate has not been enclosed along with the plaint document as required under Order VII Rule 14 of CPC.
- iii. Finally, he would plead that the sale deed in favour of the first defendant is dated 20.01.1988, whereas the suit came to be presented only in the year 2021 and therefore it is hopelessly barred by time, and consequently he will seek for rejection of plaint.

10. Insofar as the first plea of Mr.Ramanan is concerned that sufficient pleadings as required under Order VI Rule 4 of CPC have not been set forth in the plaint, I have to state, lack of pleadings can never be a reason for rejection of plaint. The plaintiff has specifically pleaded that the sale deed dated 20.01.1988 is a fabricated document. Whether the pleadings are sufficient etc., can be gone into only at the time of marshalling of pleadings and evidence just before pronouncing of judgment.

11. Insofar as the second plea is concerned that the Encumbrance Certificate has not been filed along with the plaint in order to substantiate the plea of date of knowledge of the sale deed executed by the deceased Masilamani in favour of the first defendant is concerned, Civil Procedure Code always permits a party who has not filed additional documents along with the plaint to seek for leave of the Court



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and file it subsequently. This shows that the provision is not mandatory to the effect that in case it is not filed, the plaint will stand rejected. Therefore, that too is not a ground to reject the plaint.

12. Insofar as the last plea of Mr.Ramanan that the plaint is barred by limitation, limitation is a mixed question of law and fact. A plaint can be rejected only if a reading of the plaint itself discloses that the suit is barred by time. At the time of dealing with rejection of plaint, the stand of the defendant is totally irrelevant. I have to take the plaint to be true and then analyze if it is barred by time. Going through the plaint averments, it is clear that the plaintiff has pleaded that he did not have knowledge about the sale deed till he came across the Encumbrance Certificate that had been applied for when the first defendant claimed a right over the property. Therefore, that can be said to be the cause of action for the suit. Whether the plaintiff has title to the property by virtue of the grant in the name of his father or whether the first defendant has title to the property since the sale deed executed by Masilamani is true and genuine, are all matters to be gone into at the time of trial. A reading of the plaint does not show it is barred by limitation.



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V. LAKSHMINARAYANAN, J.

KST

11. Consequently, I do not find any reason to interfere with the order of the learned District Munsif Court, Dharmapuri dated 26.08.2022 made in I.A.No.1091 of 2022 in O.S.No.47 of 2021. The Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

09.07.2024

Index : Yes/No

Neutral Citation : Yes/No

KST

To

The District Munsif
Dharmapuri.

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