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*C.R.P.(PD)No.392 of 2023*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 05.07.2024**

CORAM

**THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

**C.R.P.(PD)No.392 of 2023**

**and**

**C.M.P.No.3235 of 2023**

S.Indira Kumar

.. Petitioner

Vs.

1.Nigila Devi

2.C.Nagarajan

3.C.Thanikachalam

4.V.T.Chokkalingam

5.Kannammal

6.M.Saraswathi Ammal

7.S.Uma Maheswari

8.S.Sivakumar

9.R.Damodaran

10.R.Karunamurthy

11.R.Gnanamurthy

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<https://www.mhc.tn.gov.in/judis>



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12.V.Ramani Ammal

13.T.I.Aswinkumar

14.R.Varalakshmi

15.The Special Commissioner  
Land Administration,  
Chepauk, Chennai – 600 005

16.The District Collector,  
Thiruvallur District,  
Thiruvallur

17.The Tahsildar,  
Thiruvallur District,  
Thiruvallur

.. Respondents

**Prayer** : The Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order passed by the Principal District Munsif Court at Tiruvallur in I.A.No.2 of 2020 in O.S.No.1 of 2006 dated 25.03.2022, and consequently reject the plaint in O.S.No.1 of 2006 on the file of the Principal District Munsif Court at Tiruvallur with costs throughout.

For Petitioner : Mr.N.Manoharan  
for Mr.M.Sunil Kumar

For R1 : Mr.S.Rajasekar

For RR7, 8, 13 : Served, No Appearance

For RR3, 5, 9, 10 to 12 : Not Ready in Notice, No Appearance

For RR15 to 17 : Dr.S.Suriya  
Additional Government Pleader



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RR2, 4, 6, 14 : Died

**ORDER**

The present Civil Revision Petition arises against the order passed by the learned Principal District Munsif at Tiruvallur in I.A.No.2 of 2020 in O.S.No.1 of 2006.

2. For the sake of convenience, the parties will be referred to as per their rank in the suit.

3. O.S.No.1 of 2006 is a suit filed for a declaration that the settlement deed dated 14.05.1968, and the "WILL" dated 09.02.1972, executed by one Ponnuswami Gramani is invalid, and null and void.

4. The suit was presented in the year 2006. The 12<sup>th</sup> defendant has already gone on record by way of a detailed written statement. When the suit was listed for trial, the plaintiff filed several applications in order to effectively remove the matter from the list. Being aggrieved over the fact that for the past 18 years the suit has been kept pending, the 12<sup>th</sup> defendant took out an application for rejection of plaint.



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5. The case of the 12<sup>th</sup> defendant is that the plaintiff had not mentioned the fact that even before the presentation of the suit, several suit items had been sold. He would further point out that as per the final decree passed by this Court in C.S.No.70 of 1956, the 'D' schedule mentioned property, which is the subject matter of the present suit, had been allotted to one Ponnuswami Gramani/the 1<sup>st</sup> defendant therein. Therefore, he would state that the plaintiff has no right to claim over the property.

6. He would further point out that another suit had been filed by the present plaintiff as against the purchaser, and the plaintiff had given up her right in the said suit. Consequently, there is no subsisting interest for the plaintiff in order to continue the present litigation. On these grounds, the 12<sup>th</sup> defendant wanted the suit to be rejected.

7. On being served notice in the petition for rejection of plaint, the plaintiff filed a detailed counter.

8. According to her, the 12<sup>th</sup> defendant had already filed a written statement, and the plea that had been taken by him in the rejection of the



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plaint petition would have to be substantiated only by way of an oral evidence. She would further state that the applications which had been filed by her were not to drag on the proceeding but only to implead the subsequent purchasers of the suit properties. She would plead that reading of the plaint discloses the cause of action, and therefore, sought dismissal of the petition.

9. The learned Principal District Munsif, after perusal of the records, came to the conclusion that reading of the plaint discloses a cause of action, and therefore, dismissed the petition against which the present revision has been presented before this Court.

10. Mr.N.Manoharan would contend that the properties which are the subject matter of the present suit had been allotted to one Ponnuswami Gramani, who had executed the "WILL" and the settlement deed, for which he is rightfully and legally entitled to do so, and that the plaintiff cannot make a claim over the said properties.

11. He would state that the entire idea of the plaintiff is to keep the suit pending, and thereby, threaten the purchasers with the litigation, and to



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extract money from them. He would plead that this is a blackmail action, and the pendency of the suit is an abuse of process of Court, and even if the petition does not come within the four corners of Order VII Rule 11 of the Code of Civil Procedure, he would state this Court must exercise the powers under Article 227 of the Constitution of India to knock of the suit.

12. Mr.S.Rajasekar would submit that the 12<sup>th</sup> defendant cannot dispute the title of the plaintiff in the light of his written statement. He would state that the entire purpose of the 12<sup>th</sup> defendant having filed this application is only to help one Kishanlal and his wife who are in occupation of the property. He would state that the order of the learned Principal District Munsif does not require to be revised.

13. Taking note of the fact that the proceedings are pending from the year 2006, I requested a report from the learned Principal District Munsif as to the reason why a suit is pending for the past 16 years, and as to the reason why the trial is yet to commence in the suit. The learned Principal District Munsif has submitted a report on 04.07.2024 stating that pending the litigation, few of the parties had passed on, and therefore, steps had to be



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taken to bring the legal representatives on record. She has also noted that the respondent herein had proposed to implead 28 other persons, and array them as defendant Nos.31 to 59, and since steps have not been taken by the plaintiff to serve defendant Nos.31 to 59 in the suit, and as the amendment had not been carried out pursuant to the legal representatives brought on record, she would state that the matter has not seen trial yet. She would however state that if a period of one year is given, she will dispose of all the applications, and conclude the trial in the suit.

14. A perusal of the record would show that the property originally belonged to one Ponnuswami Gramani, and his son Shanmugasundara Gramani. A suit for partition for this property and the other properties had been presented on the original side of the Madras High Court in C.S.No.70 of 1956. This Court had passed a final decree allotting the southern portion of the property to the plaintiff, and the northern portion of the property to Ponnuswami Gramani. The property which was allotted to Ponnuswami Gramani is the subject matter of the present litigation.

15. After the final decree had been passed by this Court, the properties were acquired by the Government of Tamilnadu.



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16. Feeling aggrieved by the said acquisition, a Writ Petition was filed challenging the same. The said Writ Petition stood allowed, and therefore, the properties were reverted to the original owners.

17. According to Mr.N.Manoharan, since the property belongs to Ponnuswami Gramani, he is entitled to execute a settlement deed and a "WILL" and therefore, the plaintiff cannot claim any right over the same. However, I have to recollect that I am dealing with an application for rejection of plaint. In such an application, I have to take the averments made in the plaint to be true, and thereafter, see whether the plaint discloses the cause of action. The plaintiff has specifically pleaded in Paragraph No.6 of the plaint that after the Writ Petition had been allowed, the Authorized Officer had passed an order under the Land Reforms Act directing the authorities to hand over possession of 38 and a half acres to the plaintiff and her daughter.

18. The said 38 and a half acres, according to the plaintiff, fall within



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the southern half of the portion of the property which is the subject matter of C.S.No.70 of 1956.

19. As pointed out above, the southern half was treated as 'C' schedule in C.S.No.70 of 1956, and had been allotted to the plaintiff. Whether it is, in fact, 'C' schedule or 'D' schedule which had been allotted to Ponnuswami Gramani and thereby, he has absolute right of alienation cannot be gone into at the interlocutory stage. Furthermore, the plaintiff has pleaded that she came to know about the documents executed by Ponnuswami Gramani on 09.02.1972 only when it was filed as an Exhibit in O.S.No.85 of 2003 by Kishanlal on 01.10.2004. If 01.10.2004 is the date of knowledge, and the suit having been filed in January 2006, it will certainly not be barred by time. Therefore, the plea that the suit is hopelessly barred by limitation would have to be rejected.

20. Mr.N.Manoharan would then invite my attention to Section 3 of the Transfer of Property Act, and would state that the registration of the



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document is deemed to have been a notice to the party. Section 3 of the said Act states that "a person is said to have notice of the fact when he actually knows about that fact, or when, but for wilful abstention from an enquiry or search which he ought to have made, he would have known about it".

21. There are two documents involved in the litigation. The 1<sup>st</sup> document is the "WILL". The "WILL" is not a document dealing with the transfer of property. It is only a last wish of a person executing the document. In fact, a "WILL" can be written even for a property over which the testator has no title. A "WILL" not being a document of title, the said section will not come to the rescue of the 12<sup>th</sup> defendant.

22. Insofar as the settlement deed is concerned, though it is the document registered in terms of the Transfer of Property Act, a party who is pleading its invalidity cannot be treated as having knowledge of the document, because here is a case where the plaintiff had pleaded that the property for which Ponnuswami Gramani had executed the document does not belong to Ponnuswami Gramani. By mere fact that Ponnuswami Gramani had executed the document does not mean the Court has to



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presume that he has title to the same.

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23. As already held, whether the property comes within the 'C' or 'D' schedule can be gone into only after the documents are exhibited before the Court, and the parties join for trial. Therefore, I do not find any reason to take a different view from the one taken by the learned Principal District Munsif.

24. As seen earlier, the suit has been pending for the past 18 years. As rightly argued by Mr.N.Manoharan that the parties to the litigation would be in tenterhooks as they are still not clear about who has title to the property, whether it is the plaintiff or Ponnuswami Gramani. Unfortunately, litigation over the said property which commenced in the year 1956 is still pending even after a lapse of 65 years. Therefore, it is in the interest of the justice that a direction needs to be given to the learned Principal District Munsif to dispose of the suit at the earliest.

25. Though the learned Principal District Munsif has sought one year



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time, I feel that, if such a long time is granted, neither parties will be interested in disposal of the litigation. Therefore, the learned Principal District Munsif at Tiruvallur is requested to dispose of the suit in O.S.No.1 of 2006 on or before 31.03.2025.

26. The learned Principal District Munsif is also requested to take note of the fact that the litigation over the property is pending for more than seven decades. In the extraordinary circumstances which prevail in the present litigation, the Court shall ensure that the parties do not unnecessarily drag on the matter. In case, the plaintiff does not co-operate for the litigation, it is always open to the Court to pass appropriate orders including dismissal of the suit. A similar attitude may be shown by the defendants, and if they also attempt to drag on the litigation, the Court can pass such orders to enable the plaintiff see light in the matter.

27. Even if I were to take for a moment that the litigation commenced only in January 2006, even then, the suit is more than 10 years old. Therefore, the learned Principal District Munsif shall take into consideration the overall circumstances, and ensure that the suit is disposed of on or



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before the aforesaid date. On such disposal, the learned Principal District Munsif shall submit a report of compliance to this Court.

28. With the above directions, the Civil Revision Petition stands dismissed. No costs. The learned Principal District Munsif is requested not to wait for the certified copy of this order but is requested to act on the web copy of this order that will be produced by the civil revision petitioner/12<sup>th</sup> defendant. The connected Civil Miscellaneous Petition is closed.

**05.07.2024**

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

**V. LAKSHMINARAYANAN, J.**

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To  
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The Principal District Munsif Court,  
Tiruvallur

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**and**  
**C.M.P.No.3235 of 2023**

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