



C.R.P.No.553 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.553 of 2023
and
C.M.P.No.4499 of 2023

Yasotha

..Petitioner

Vs.

- 1.Arumugam
- 2.Subramani
- 3.Devaraj (Died)
- 4.Amsaveni
- 5.Savithri
- 6.Vanitha
- 7.Jamuna
- 8.Vivekananthan
- 9.Pazani
- 10.D.Renuka
- 11.D.Sathishmumar
- 12.D.Mahalakshmi

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to allow the CRP and strike off the plaint in O.S.No.197 of 2022 on the file of the Subordinate Court at Polur, Tiruvannamalai District.



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For Petitioner : Mr.P.Ganapathy
For Respondents 1 and 8 : Mr.D.Thirumoorthy
for M/s.S.P.Aarthi

ORDER

This Civil Revision Petition seeks to strike off the plaint in O.S.No.197 of 2020 on the file of the Sub-Court, Polur, Tiruvannamalai District.

2. The case of the plaintiff is that the properties originally belonged to one Kuzanthai Gounder. Kuzanthai Gounder left behind four sons viz., Pachaiyappa Gounder, Rangasamy Gounder, Chinnakuzandhai Gounder and Appakkannu Gounder. After the death of Kuzanthai Gounder his four sons partitioned the property and the 'A' schedule mentioned properties fell to the share of Chinnakkannu Gounder. He retained some properties and passed away on 07.07.2007. When the plaintiff, who is the son of Chinnakkannu Gounder, demanded his share of the properties, the 1st defendant pleaded that she is in possession of the property on account of a “Will” executed by Chinnakkannu Gounder in her favour and also a gift settlement deed



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dated 26.09.1997. Hence, the plaintiff came forward with a suit for partition seeking his 1/7th share and for a declaration that the “Will” dated 04.01.2005 and the gift deed dated 26.09.1997 are null and void. On being served with the summons, the 1st defendant had preferred this revision.

3. This Court had issued notice in the revision. Hence, the respondents have entered appearance through the Ms.S.P.Arthi.

4. Mr.P.Ganapathy, learned counsel appearing for the civil revision petitioner pleads that the plaintiff and his siblings had executed a document before the panchayatdar on 05.06.2010 admitting the settlement deed dated 26.09.1997 and therefore the presentation of the partition suit after a lapse of 12 years from the date of the said documents is hopelessly barred by time.

5. Heard Mr.P.Ganapathy, learned counsel appearing for the civil revision petitioner and Mr.D.Thirumoorthy for Ms.S.P.Aarthi, learned counsel appearing for the respondents 1 and 8.



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6. The 1st defendant claims title by virtue of the two documents viz., settlement deed dated 26.09.1997 and the “Will” dated 04.01.2005. Chinnakannu Gounder had passed away on 07.07.2007. There is no dispute in the relationship between the parties. The plaintiff is the brother of the 1st defendant and the defendants 1 to 5 are the other siblings. The defendants 6 to 9 are the children of pre-deceased son viz., Ramalingam.

7. Whether the document dated 05.06.2010 estops the plaintiff and the other heirs from claiming a share is a matter which necessarily requires evidence. When there are disputed questions of fact, this Court cannot interfere and exercise power under Article 227 of the Constitution of India.

8. At this stage Mr.P.Ganapathy, would plead that his client is a senior citizen aged 73 years and the plaintiff has come forward with the suit only for harassing her and grabbing her property. He would draw my attention to the proceedings that have been initiated before the Tribunal



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under the Maintenance of Parents and Senior Citizens Act, 2007 to plead that one litigation after another has been launched by the plaintiff and other siblings in order to harass the 1st defendant. He adds his client has filed a written statement before the learned Sub-Judge.

9. Taking into consideration the aforesaid circumstances, while dismissing the revision, there shall be a direction to the learned Sub-Judge, Polur to dispose of O.S.No.197 of 2022 within a period of eight (8) months from the date of receipt of a copy of the order and submit a report of compliance of same to this Court. No costs. Consequently, the connected miscellaneous petition is closed.

01.10.2024

dsa
Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
Speaking order / Non-Speaking order

To
The Subordinate Judge,
Polur, Tiruvannamalai District.



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V.LAKSHMINARAYANAN,J.

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