



CRP.No.875 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 15.03.2024

Delivered on : 03.06.2024

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRP.875 of 2022

R.Esari

..Petitioner/plaintiff

Vs.

1.T.Ravi

2.R.Maily

3.N.Kanniappan

4.N.Perumalswamy

5.N.Mariappan

..Respondents/Defendants

Prayer : Civil Revision Petition filed as against the order dated 21.09.2021 in I.A.No.634/2018 in O.S.No.22/2013 on the file of III Additional District Judge at Puducherry.

For Petitioner : Mr.S.Raveekumar

For respondents : Mr.D.Ravichander for R1 and R2

For R3 and R5 – No appearance

for R4- No such addressee.



CRP.No.875 of 2022

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ORDER

This civil revision petition is filed as against the order dated 21.09.2021 passed in I.A.No.634/2018 in O.S.No.22/2013 on the file of III Additional District Judge, Puducherry.

2. The revision petitioner is the plaintiff. The respondents are the defendants in O.S.No.22 of 2013. The suit is filed for declaration and other reliefs. The plaint averments is that plaintiff purchased "A" Schedule property from Ranganathan vide sale deed executed on 18.04.2011 and registered on 7.7.2011 in Doc.No.2992/2011. The plaintiff is the absolute owner of "A" schedule property. According to the plaintiff, Meenakshi @ Meenatchi Ammal had already cancelled donation cum settlement deed dated 13.3.2002 on the grounds that it was obtained by fraud, misrepresentation, deceit, undue influence and coercion. After cancellation of said donation cum settlement deed, 1st and 2nd defendants had also admitted their tenancy to Meenkshi @ Meenatchi Ammal in court proceedings.

3. The plaintiff filed I.A.No.634 of 2018 and sought to permit the



CRP.No.875 of 2022

plaintiff to amend the plaint and duplicate plaint to seek an additional relief in the plaint. The petitioner/plaintiff submitted in the I.A., that she may be permitted to seek an additional relief in the plaint with regard to the purported settlement deed dated 13.03.2002 in Doc.No.3146/2002 as otherwise irreparable loss and prejudice will be caused to her. The defendants filed counter denying the pleadings in the I.A. and stated that in the year 2002 itself, the petitioner/plaintiff had the knowledge that the document was obtained by fraud; in such circumstances, the accruals of cause of action for cancellation of the said deed of settlement in favour of the 2nd defendant had commenced on 20.08.2002 itself; therefore, even if this relief had been originally prayed for in the plaint itself even in such an eventuality, it is obviously barred by limitation. The counter further states that the amendment in the manner of declaration that the settlement deed in favour of 2nd defendant is null and void is barred by limitation.

4. The learned Judge, trial court, after hearing both sides dismissed the I.A.No.634 of 2018 in O.S.No.22/2013 on 21.09.2021, holding that the petitioner/plaintiff while filing the suit, did not ask for the prayer viz., to declare the settlement deed dated 13.03.2002 as null and void, as the same was



CRP.No.875 of 2022

cancelled subsequently; now, the petitioner wants to include the prayer that the settlement deed dated 13.03.2002 to be declared as null and void on the ground that the alleged settlement deed dated 13.03.2002 and the subsequent cancellation of settlement deed dated 20.08.2002 was already pleaded in the plaint, but at the time of filing the suit, the petitioner was advised not to include the prayer and now the petitioner wants to include the said prayer. The learned Judge, pointed out that when the law of limitation prescribes that within 3 years of execution of said document, the suit has to be preferred, the petitioner/plaintiff did not include the said prayer, while filing suit, but after lapse of 15 years, the petitioner/plaintiff cannot ask for such relief, as it is barred by Limitation Act.

5. The learned counsel appearing for R1 and R2 would submit that since the prayer sought for in the I.A., is hopelessly barred by limitation, the learned Judge, rightly dismissed the I.A. which needs no interference by this court.

6. Heard both sides and perused the records carefully.

7. It is transpired from the records that the petitioner/plaintiff had the



CRP.No.875 of 2022

knowledge that the document was obtained by fraud and in such circumstances, the plaintiff ought to have sought for the proper relief in the plaint. The plaintiff after the lapse of 15 years wanted to include the prayer. The same is barred by Limitation Act. The learned Judge, trial court after going through the entire matter held that while filing the suit, the petitioner did not ask for the prayer viz., to declare the settlement deed dated 13.03.2022 as null and void and the subsequent cancellation of settlement deed dated 20.08.2022 was already pleaded in the plaint and therefore, when the inclusion of the prayer after the lapse of 15 years is clearly barred by Limitation Act, the same cannot be entertained. In the considered view of this court, the findings of the learned Judge, trial court warrants no interference. Accordingly, this civil revision petition is dismissed. No costs.

03.06.2024

nvsri

To

The Additional District Judge, Puducherry.



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CRP.No.875 of 2022

J.NISHA BANU, J.

nvsri

CRP.875 of 2022

03.06.2024