



C.R.P.(PD)No.3514 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **26.11.2024**

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.3514 of 2023

1. P.Parthasarathy

2. Kankipati Kanniah Chetty Trust,
P.Parthasarathy Trustee,
No.19/6, Venkateswara Nagar,
IV main road, II floor,
Kolathur, Chennai-600 099.

.. Petitioners

Vs

1. K.Venugopal

2. V.Premkumar

3. Lakshminarayanan

4. G.Subashini

5. G.Nagaraj

G.Audiseshudu (deceased)

6. G.Nagendra Prasad

7. K.Anjani

8. Manjula

9. C.B.Hanumanthakumari alias C.B.Anitha



C.R.P.(PD)No.3514 of 2023

10. K.V.Sathishkumar

11. K.V.Ganesh Khana

12. K.E.Moorthy

13. E.Durgambal

14. Chandravathi

15. A.Bharathkumar

16. A.Deepasri

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 02.11.2022 in I.A.No.1 of 2022 in O.S.No.7535 of 2019 on the file of the learned XIII Assistant Judge, City Civil Court at Chennai.

For Petitioners : Mr.P.Parthasarathy, party-in-person

For RR1 & 2 : Ms.M.Abinu Monisha
for Mr.A.V.Arun

For RR4 & 5 : Mr.S.L.Sudarsanam

For RR10 to 12

& 14 to 16 : No appearance



C.R.P.(PD)No.3514 of 2023

ORDER

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The civil revision petition arises against the order of the learned XIII Assistant Judge, City Civil Court at Chennai in I.A.No.1 of 2022 in O.S.No.7535 of 2019 dated 02.11.2022.

2. The civil revision petitioners are the defendants 1 & 2 and the respondents 1 & 2 are the plaintiffs. O.S.No.7535 of 2019 is a suit seeking for the following reliefs:

“a) Judgment and Decree in favour of the Plaintiffs and against the defendants declaring that the sale deed dated 13.04.2018 registered as Document No.2335 of 2018 effected by the defendants 3,4,5,6,7 and 9 in favour of the 14th defendant is invalid, null and void and subsequently

b) By way of permanent injunction restraining the defendants or their men, servants, agents or any one acting on their behalf alienating the same or encumbering the same in any manner altering nature and character of the suit property.”



C.R.P.(PD)No.3514 of 2023

3. I.A.No.1 of 2022 had been presented for the purpose of bringing on record the legal representatives of the deceased 6th defendant G.Adhisheshudu, as defendants 15 to 17 to the suit. The said application was allowed on 02.11.2022. Hence, this revision.

4. The case of the plaintiffs is that a sale had been effected by defendants 3 to 7 & 9 in favour of the 14th defendant without following the requirements of the trust deed. Pending the suit, they also sought for an injunction restraining the defendants from further alienating the property and altering its physical features. The 6th defendant Adhisheshudu passed away on 23.07.2020. His legal heirs are respondents 14 to 16 in this revision.

5. An application under Order XXII Rule 4 of the C.P.C. was filed after a period of 90 days. The petitioners claimed that, on account of the judgment of the Supreme Court in **[In. Re: Cognizance for Extension of Limitation] Suo motu W.P.(C)No.3 of 2020**, as the Limitation Act was suspended, the application was in time. Learned Judge ordered notice in the application. The defendants 1 & 2 alone filed a counter. The respondents 3 to 17 in I.A.No.1 of 2022 remained *exparte*.



6. The plea of the defendants 1 & 2 is that the plaintiffs have no locus-standi to file the suit. The cause title that has been given to the suit is improper as the husband of the 9th defendant, Manjula namely, one G.Nageswara Rao had not been shown as a party to the litigation.

7. Learned Trial Judge, after hearing both sides, allowed the application, since there is no dispute on, who are, the legal heirs of Adhishesudu. Hence, the defendants 1 & 2 are on revision.

8. I heard Mr.P.Parthasarathy, party-in-person, civil revision petitioners and Ms.M.Abinu Monisha for Mr.A.V.Arun for respondents 1 & 2.

9. The party-in-person reiterated the submissions that he made before the Trial Court. According to him, Mr.G.Nageswara Rao, the husband of Manjula had not been shown as party to the litigation. He states that the cause title is wrong and therefore, the application ought not to have been allowed. In addition, he points out that the wife of K.Venugopal, the 1st plaintiff namely, M.V.Rukmani had also not been shown in the cause title. Therefore, he pleads that the order of the Trial Court has to be set aside and the revision is to be allowed.



C.R.P.(PD)No.3514 of 2023

10. Per contra, Ms.M.Abinu Monisha states that the application under Order XXII Rule 4 of C.P.C. was filed to bring on record the legal representatives of the deceased 6th defendant. She points out that the Trial Court, has left opened the issue raised by the party-in-person to be decided, at the time of disposal of the main suit. Hence, she prays for confirmation of the order.

11. I have carefully considered the submissions of Mr.P.Parthasarathy, party-in-person and Ms.M.Abinu Monisha. I have perused the entire records.

12. At the outset, I have to point out, if at all any one is aggrieved, it is the respondents 14 to 16 to the revision. By virtue of the impugned order, they have been brought on record as parties to the suit. They have neither contested the application before the Trial Court nor have they challenged the order impleading them as the parties to the suit. I am not in a position to understand as to how the 1st and 2nd defendants are filing a revision challenging the impleadment of defendants 15 to 17.



C.R.P.(PD)No.3514 of 2023

13. Furthermore, the plea of Mr.P.Parthasarathy, party-in-person that Nageswara Rao, the husband of the 9th defendant and Mrs.Rukmani, the wife of the 1st plaintiff ought to have been impleaded as parties to the suit. This plea does not appeal to me. This is because, Nageswara Rao and Rukmani had died even before the presentation of the plaint. Had the plaintiff shown a dead person as a party to the suit, then he would have faced the consequences for such impleadment. The Code of Civil Procedure does not demand a deceased person to be made as a party to the suit. It makes absolutely no sense of showing a dead person as a party, because to my knowledge, the bailiffs of the City Civil Court are not yet trained to serve notices either in hell or in heaven.

14. The demand of Mr.P.Parthasarathy, party-in-person seems to be, only to some how or the other, drag on the matter and ensure that the suit does not see the light of the trial. This is a simple application to implead the legal heirs of the deceased 6th defendant. The relationship between the defendants 15 to 17 with the deceased is also not in dispute. The fact that the cause title has allegedly been wrongly shown cannot be a ground to set aside an order of impleading the legal heirs.



C.R.P.(PD)No.3514 of 2023

15. In the light of the above discussions, the civil revision petition

stands dismissed with costs of Rs.5,000/- (Rupees Five thousand only).

26.11.2024

Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

kj

To

XIII Assistant Judge, City Civil Court at Chennai.



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C.R.P.(PD)No.3514 of 2023

V. LAKSHMINARAYANAN,J.

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C.R.P.(PD)No.3514 of 2023

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