



CRP.No.4050 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.No.4050 of 2024
and C.M.P.No.22272 of 2024

S.Baskar

.. Petitioner

Versus

1.S.Ranjithkumar

K.S.Sambasivam (Deceased)

2.Savithri

3.Uma Maheswari

4.Sundarambal

5.Ramamani

6.P.S.Sivakumar

7.P.S.Sankaranarayanan

8.M.Sivakumar

(8th respondent impleaded vide Order dated 02.12.2024
in C.M.P.No.26123 of 2024 in CRP.No.4050 of 2024)

.. Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the judgment and decree dated 28.02.2011 in O.S.No.142 of 2010 on the file of the Principal Subordinate Judge, Krishnagiri District and declare all consequential orders and documents executed in pursuance to the said judgment and decree as null and void.



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For Petitioners : Mr.J.Ravikumar
For Respondents : Mr.B.M.Subash for R1
No appearance for R3, 4, 6 & 9
Mrs.S.P.Arthi for R8

ORDER

This revision has been filed seeking to set aside the judgment and decree dated 28.10.2021 in O.S.No.142 of 2010 on the file of the Principal Subordinate Judge, Krishnagiri District under Article 227 of the Constitution of India on the ground that the the decree and judgment has been obtained fraudulently, that apart, the decree and judgment contains only one line order and the judgment does not satisfy the requirements of Order XX Rules 4 and 5 of C.P.C.,

2. Since, the impleading 8th respondent claims to be a purchaser from the first respondent has filed C.M.P.No.26123 of 2024 for impleadment in this revision, this Court is of the view that the impleading petitioner is necessary for proper adjudication of this revision petition. Hence, the impleading petition is ordered, accordingly.

3. Brief background of the case is as follows:

3.a. The case of revision petitioner is that one Gowriammal has filed a



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suit in O.S.No.132 of 1986 against Sambasaivam for declaration and various other reliefs in respect of the suit properties. The suit was decreed in her favour on 14.08.1986. Thereafter, another suit in O.S.No.75 of 2011 was filed by the Gowriammal against her husband and his second wife and children before the District Munsif cum Judicial Magistrate, Pochampalli for declaration and permanent injunction. In that suit, a compromise decree was obtained on 29.11.2002. Thereafter, all of them sold the property to P.V.Chandran vide document dated 17.05.2010. The said P.V.Chandran sold the same vide sale deeds dated 15.07.2013 bearing Doc.Nos.863 & 864 of 2013 in favour of the petitioner and his wife, who are doctors by profession.

3.b. When the matter stood thus, the said Sambasivam, who has suffered a decree in the year 1986 in O.S.No.132 of 1986, suppressing the subsequent transactions had entered into an unregistered agreement dated 16.06.2010 with the first respondent herein and fraudulently thereafter, the first respondent filed a suit for specific performance in O.S.No.142 of 2010 before the Principal Subordinate Court, Krishnagiri, wherein, exparte collusive decree has been passed and further the Trial Court has not even



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gone into the matter and one line order has been passed. For setting aside the exparte order, the present revision has been filed.

4. The learned counsel for the petitioner submitted that though the property has been purchased by Sambasivam from the petitioner's predecessor in title, Gowriammal in the year 1972. That sale has been challenged by Gowriammal in the suit in O.S.No.132 of 1986 and the same was decreed on 14.08.1986. Thereafter, another suit in O.S.No.75 of 2011 was filed by the Gowriammal and a compromise decree was passed on 29.11.2002. Thereafter, properties were sold to one P.V.Chandran vide document dated 17.05.2010. The said P.V.Chandran sold the same to the revision petitioner. However, Sambasivam, who has suffered a decree in the year 1986 in O.S.No.132 of 1986, suppressing the subsequent transactions had entered into an unregistered agreement dated 16.06.2010 with the first respondent herein for sale of property fixing three months time. However, the first respondent had filed a suit for specific performance in O.S.No.142 of 2010 before the Principal Subordinate Court, Krishnagiri, even before the expiry of the three months time and without any pre-suit notice, the defendant was conveniently set exparte and



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one line order has been passed and the suit has been decreed. According to the learned counsel for the petitioner, the decree has been obtained collusively.

5. Whereas, the learned counsel for the first respondent submitted that the exparte order is also obtained as against the Sambhasivam in the year 1986 in O.S.No.132 of 1986, hence, the title has to be decided in a proper manner. Merely, because the suit has been decreed exparte that cannot be a ground to set aside the same. Now, the property has already been sold and the subsequent purchaser has got the right in the property. Hence, vehemently opposed the revision.

6. The learned counsel for the eighth respondent submitted that the eighth respondent is the absolute owner for the lands to an extent of 8.97 cents purchased from the first respondent/Ranjith Kumar vide sale deeds dated 04.01.2023 bearing Doc.Nos.56 and 57 of 2023. Challenge has been made to the decree dated 28.02.2011, wherein, the first respondent has derived title in pursuant to the decree. Therefore, seeks for dismissal of this revision.



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7. Heard both sides and perused the materials placed on record.

8. The facts narrated above clearly shows that the decree and judgment in O.S.No.142 of 2010 is sought to be cancelled by invoking the powers under Article 227 of the Constitution of India. The decree and judgment dated 28.02.2011, when carefully perused, it would indicate that the suit has been filed to enforce the unregistered agreement dated 16.06.2010. The sale agreement has been entered between Sambasivam and the first respondent/Ranjith Kumar for a sale consideration of Rs.3,10,000/- and Rs.2,00,000/- was paid in advance and the time limit fixed for payment of balance consideration is three months from the date of agreement. However, suit for specific performance has been filed by the first respondent even before the expiry of the three months time agreed between the parties. There was no pre-suit notice. Be that as it may, in the suit, the defendant remained exparte. The judgment of the Trial Court is as follows:

The plaintiff had marked the unregistered sale agreement dated 16.06.2010 as P.W.1. Plaint and documents perused. Claim proved. Suit is decreed as prayed for with costs.



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Except stating the same, the Trial Court has not gone into the issue.

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9. This Court is of the view that the judgment and decree is not in tune with Order XX Rules 4 and 5 of CPC . The minimum requirement for a suit for specific performance, namely, the readiness and willingness that requires to be proved, has not even been dealt with in the judgment. Even concise statement of the case has not been given in the judgment and decree. The judgment does not satisfy the requirements of Order XX Rules 4 and 5 of C.P.C., When any judgment is passed without assigning any reasons and want for determination, such judgment cannot be considered as a valid judgment in the eye of law. As far as passing of the exparte decree in one line is concerned, this Court, in many occasion had deprecated the practise of passing such order and held that one line judgment is not valid judgment in the eye of law.

10. It will be relevant to take note of certain judgments on this aspect.

(i). This Court in *Meenakshisundaram Textiles v. Vallilammal Textiles Ltd., Tiruppur*, reported in (2011) 7 MLJ 652, has been held as follows:

“5. We have heard the respective learned counsel on either side on the above question. Section 2(9) of the Code of



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Civil Procedure defines a “judgment” as meaning, the statement given by the judge on the grounds of a decree or order. In this context, Order XX Rules 4 (1) & (2) are also referable, which read as under:-

“4. Judgment of Small Cause Courts.-(1) Judgments of a Court of Small Causes need not contain more than the points for determination and the decision thereon.

(2) Judgments of other Courts.-- Judgments of other Courts shall contain a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision.”

Order XX Rule 4(1) relates to the judgment of a Court of Small Causes. Inasmuch as the said judgment does not require more than the points for determination and that the decision thereon, a judgment of a Court of Small Causes shall not fall under Section 2(9) of the Code of Civil Procedure. Insofar as the judgment of other Court is concerned, in terms of Order XX Rule 4(2), it shall contain a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision and therefore it shall fall under Section 2(9) of the Code of Civil Procedure and in that sense, all the ingredients contained in Order XX Rule 4(2) must be available in that judgment. This is more so in view of the provisions of Order XX Rule 5 relating to the duty of the Court to state its reasons on each issue. That Rule reads as under:-



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“5.Court to state its decision on each issue.-- In suits in which issues have been framed, the Court shall state its finding or decision, with the reasons therefor, upon each separate issue, unless the finding upon any one or more of the issues is sufficient for the decision of the suit.”

6. In terms of the above provisions, every judgment should contain a concise statement of the case, the points for determination, decision thereon and the reasons for such decision. A judgment which does not contain the bare minimum facts, the point for determination, the evidence adduced and the application of those facts and evidence for deciding the issue would not qualify it to be called as “judgment”. The judgment should contain the brief summary of the facts, the evidence produced by the plaintiff in support of his claim and the reasoning of the learned Judge either for decreeing the suit or its dismissal. The Civil Procedure Code does not say that the Court is bound to grant a decree in case the defendant is absent. Judgment means cognitive process of reading a decision or drawing conclusion. Judgment is the basic requirement for a court and it means a decision or conclusion reached after consideration and deliberation. To put it differently, the basics of a judgment are to support by most cogent reasons that suggest themselves the final conclusion at which the Judge has conscientiously arrived.

15. As against the requirement of a judgment, Section 2(14) of the Code of Civil Procedure relating to an “order” is



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also referable. In terms of that Section, an “order” means the formal expression of any decision of a Civil Court which is not a decree. When it comes to the judgment, it should state the grounds of a decree, which includes an order. Hence, there is a vast difference between a judgment, a decree based on such judgment and an order.

16. Code of Civil Procedure does not define either an *ex parte* judgment or an *ex parte* decree. It refers only to a judgment and a decree. In the event a judgment is rendered when the defendant fails to defend the suit by his absence, that judgment is known to be an *ex parte* judgment and the decree drawn on the basis of that judgment is known as an *ex parte* decree. Hence, even for an *ex parte* judgment and the decree, the basic ingredients of judgment must be available to the extent to indicate that the Court has applied its mind to the pleading, relief claimed thereunder, the evidence and the conclusion arrived at by the Court on the above.”

(ii). This Court in *G.Selvam and others v. Kasthuri (deceased) and others*, reported in 2015 (4) CTC 673, has held as follows:

“7. The main contention raised by Mr.R.Muthukumarasamy, learned Senior Counsel appearing for the petitioner is that the judgment and decree passed by the Trial Court is liable to be set aside on the ground that the Trial Court had passed a preliminary decree by non-speaking



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judgment. The learned Senior Counsel further submitted that the judgment passed by the Trial Court is against the settled propositions of the Hon'ble Apex Court as well as this court. The learned Senior Counsel further contended that since the judgment and decree passed by the Trial Court is against the provisions of Order 20 Rule 5 of C.P.C., and also the ratios laid down by the Hon'ble Supreme Court and this court, the Civil Revision Petition filed under Article 227 of the Constitution of India challenging the said judgment and decree is maintainable.

25. As per Order 20 Rule 4 of Civil Procedure Code, Judgments of the Courts shall contain a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision.

26. In the case on hand, all the defendants were set exparte. The trial court did not frame any issue for deciding the suit. The trial court simply examined P.W.1 and found that the claim made by him is proved. The judgment pronounced by the trial court is clearly contrary to the provisions of Order.20 Rule 4 and Rule 5 of Civil Procedure Code.

27. In the judgment reported in 2012 (5) SCC 265 (C.N. Ramappa Gowda vs C.C. Chandregowda (dead) by LRs and another, cited supra, the Hon'ble Supreme Court held that in a suit, where the defendants failed to file their written statement, the non-filing of the written statement should not have any penal consequences and the court should proceed



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cautiously and exercise its discretion in a just manner and even in the absence of written statement, burden of proof would remain on plaintiff and his mere assertion in plaint would not be sufficient to discharge the burden.

28. In that case, challenging a cryptic unreasoned judgment and decree, resulting from failure to file a written statement despite repeated opportunities having been given for the same, it has been held that the High Court was justified in remanding the matter to the lower Court for de novo trial by giving fresh opportunity to the defendants to file written statement.

29. Following the ratio laid down in the judgment reported in 2012 (5) SCC 265 (Ramappa Gowda vs C.C. Chandregowda (dead) by LRs and another,) the Division Bench of this Court, reported in 2013 (4) CTC 545 (Chitrakala vs P. Mahesh and others) (cited supra) (wherein, I was a party to the judgment), held that the burden of proof lies on plaintiff, irrespective of there being any Written Statement or evidence of rebuttal, plaintiff to succeed in Suit only on the basis of strength in his case and not on the basis of weakness in Defendant's case.

30. Further, the Division Bench held that the decree cannot be passed solely on the plaint averments, as these averments are not substantiated. Hence the Division Bench remanded the matter back to the trial court for fresh disposal.”



(iii). This Court in *K.Balakrishnan v. S.Dhanasekar*, reported in 2018

(1) LW 599, has held as follows:

“6. The only ground raised by the appellant is that the trial court passed the ex parte decree without giving detailed reason or appreciating The evidence adduced by the plaintiff. The learned counsel for the appellant/defendant submitted that the respondent/plaintiff herein filed the suit before the Additional District Munsif Court for permanent injunction. The trial court passed the ex parte decree against the appellant/defendant. Challenging the judgment and decree passed by the trial court, the appellant/defendant preferred an appeal before the Sub Court by raising a ground that the trial court failed to record reasons in the judgment for granting relief in favour of the plaintiff. According to the learned counsel for the appellant/defendant, the trial court has simply decreed the suit, by recording a finding that on the basis of the evidence of P.W.1 and the documents marked as Ex.A1 to A7, the plaintiff has proved the case. In the said judgment, except the aforesaid fact, there is no discussion or appreciation of evidence adduced by the plaintiff nor any reason in the judgment for granting relief in favour of the plaintiff. According to the learned Senior counsel for the appellant/defendant, in the light of the decision of the Hon'ble Supreme Court as well as this court, the settled legal principles of law is that judgment must



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contain the bare minimum facts, the point for determination, evidence adduced and the evidence which are basis for deciding the issues. It is the further contention of the learned Senior counsel that as per the definition under Section 2(9) of C.P.C., the judgment means there must be adjudication of dispute. The judgment should contain brief summary. Therefore, the present judgment passed by the trial court is cryptic and an unreasoned judgment. Hence, the judgment and decree passed by the trial court as well as the judgment and decree passed by the Appellate court are liable to be set aside. In support of his submission, the learned counsel for the appellant/defendant relied on the following decisions:

- (i) SMT. SWARAN LATA GHOSH VS. H.K.BANERJEE AND OTHERS [1969(I) 1 SCC 709];*
- (ii) C.N.RAMAPPA GOWDA VS. C.C. CHANDREGOWDA (DEAD) BY LRS. AND ANOTHER [(2012)5 SCC 265;*
- (iii) SHANTILAL GULABCHAND MUTHA VS. TATA ENGINEERING AND LOCOMOTIVE COMPANY LTD. AND ANOTHER [(2013)4 SCC 396;*
- (iv) AZIZ AHMED KHAN VS. I.A. PATEL (A.I.R. 1974 (V.61,C.1));*
- (v) M/s. MEENAKSHI SUNDARAM TEXTILE VS. VALLIAMMAL TEXTILE LTD. [2011) 3 L.W 80].*

22. Hence, in the light of the principles laid down by the Hon'ble Supreme Court as well as this court, the trial court



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without considering Section 2(9), C.P.C. which defines a meaning a formal expression of civil court. Any decision of civil court is not a decree. In a suit, court may take certain decision of objective consideration and those decisions must Contain discussion of the matter, issues in the suit, reason which led the court to pass such orders.

23. In the case of C.N.RAMAPPA GOWDA cited supra, the Hon'ble Supreme court has considered the issue of unreasoned judgment and decree passed by the trial court and held that it is a well-acknowledged legal dictum that assertion is no proof and hence, the burden lay on the plaintiff to prove his/her case even if there was no written statement to the contrary or any evidence of rebuttal and the Hon'ble Supreme Court observed that the trial court adopted an erroneous approach by inferring that merely because there was no evidence of denial or rebuttal, the plaintiff's case could be held to have been proved. The trial court therefore, while accepting the plea of the plaintiff ought to have recorded reasons even if it were based on exparte evidence. By placing reliance upon the judgment in Balraj Taneja's case, it Was held that if the plaint itself indicates that there are disputed question of fact involved in the case regarding which two different versions are set out in the plaint itself, it would not be safe for the court to to pass a Judgment without requiring the plaintiff to prove the facts so as to settle the factual controversy. Further, in the concluding



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portion of the judgment, it was held that the trial court has decreed the suit without assigning any reason how the plaintiff is entitled for half-share in the property. Such judgment is absolutely cryptic in nature.

24. Therefore, in the light of the decisions of the Hon'ble Supreme court as well as the decision of the Division Bench of this court reported in 2011(3) L.W. 80 (supra), while passing the exparte judgment, the trial court has not satisfied the requirement under Section 2(9) of C.P.C. The trial court has passed a cryptic and unreasoned judgment in granting exparte decree in favour of the plaintiff.”

11. It is clear from the above judgments that where the defendant contests a suit or submits himself to a decree, it is the bounden duty of the trial Court to follow the procedure under Order XX Rule 4 of the Civil Procedure Code, by giving the concise statement of the case, the points for determination, the decision thereon and the reasons for such decision. If this is not satisfied and a cryptic unreasoned judgment is passed, it is ex facie illegal. The Court need not have a pedantic approach in this regard, since it involves the substantial right of the parties.

12. This Court in exercise of its jurisdiction under Article 227 of the



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Constitution of India, is exercising power of superintendence over all the Courts and tribunals throughout the State. This Court cannot turn a blind eye when its attention is drawn to an ex-facie illegal judgment. This Court has to necessarily interfere with the same, failing which, there will be failure of justice and it will amount to perpetuating illegality.

13. Further, it is also to be noted that the said Sambasivam, who appears to have suffered a decree in O.S.No.132 of 1986 filed by Gowriammal has executed an unregistered agreement dated 16.06.2010. Though the said judgment dated 14.08.1986 is also exparte decree, it is relevant to note that subsequently, another suit was filed by the said Gowriammal in O.S.No.75 of 2001 on the file of learned District Munsif cum Judicial Magistrate, Pochampalli, wherein, a compromise decree was passed on 29.11.2002. Thereafter, Gowriammal had sold the property to P.V.Chandran on 17.05.2013 and subsequently, the petitioner had purchased the property on 15.07.2013 from the said P.V.Chandran. When the property is already dealt in the year 2013, whereas, Sambasivam, he has allegedly entered into an unregistered agreement with the first respondent on 16.06.2010 and even prior to the expiry of the agreed time,



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suit for specific performance was filed and he remained exparte and the exparte decree is passed. The very conduct of parties clearly shows that there is collusion between the parties. Such view of the matter, considering the judgment itself is cryptic violates the mandatory procedures, the judgment and decree dated 28.02.2011 in O.S.No.142 of 2010 on the file of Principal Sub Judge, Krishnagiri is hereby set aside.

14. Accordingly, this revision petition stands allowed. No costs. Consequently, connected miscellaneous petition stands closed. If at all, still the parties wants to claim shares, it is for them to file necessary comprehensive suit to establish their right on the basis of the right in the property.

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