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C.R.P.No.1724 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.1724 of 2022

and

C.M.P.No.8703 of 2022

1.R.Chandra Gupta
2.R.Saradha
3.Anita Devi
4.Nayana Jain
5.N.Shyleash

... Petitioners

Vs.

1.R.Susheela
2.R.Palanivel
3.R.Janani
4.R.Sasikala
5.R.Bhavani
6.D.Raju

7.The Sub Registrar,
Avadi, Chennai – 600 123.

8.The District Registrar,
North Chennai District Registration Office,
Chennai.

9.The Tahsildar,
Poonamallee.

... Respondents



C.R.P.No.1724 of 2022

PRAYER: Revision filed under Article 227 of the Constitution of India praying to set aside the fair and decretal order dated 06.04.2022 passed in I.A.No.725 of 2018 in O.S.No.176 of 2017 by the Additional District Munsif Court, Poonamallee.

For Petitioners : Ms.Y.Kavitha
for M/s.P.V.S.Giridhar Associates

For respondents : Mr.M.Selvaraj for R1 to R4

: Dr.S.Suriya
Additional Government Pleader
for R7 to R9

: Served – No appearance for R5 & R6

ORDER

This revision arises against the order passed in I.A.No.725 of 2018 in O.S.No.176 of 2017 on the file of the Additional District Munsif at Poonamallee.

2. O.S.No.176 of 2017 is a suit filed for the following reliefs:

(a) declaration, to declare the alleged Sale Deed dated 22.08.2022 in Document No.10569 of 2012 on the file of 8th defendant herein executed by 1st defendant in favour of the 2nd defendant in respect of the suit property, as null & void, non-est, neither binding on the plaintiffs nor the suit property;



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(b) declaration, to declare the alleged Sale Deed dated 18.1.2013 in Document No.456 of 2013 on the file of 8th defendant herein executed by 2nd defendant in favour of the defendants 3 & 4 in respect of 50% of undivided share in the suit property, as null & void, non-est, neither binding on the plaintiffs nor the suit property;

(c) declaration, to declare the alleged Sale Deed dated 18.1.2013 in Document No.457 of 2013 on the file of 8th defendant herein executed by 2nd defendant in favour of the defendants 5 & 6, represented by the 7th defendant in respect of 50% of undivided share in the suit property, as null & void, non-est, neither binding on the plaintiffs nor the suit property;

(d) for permanent injunction restraining the defendants 1 to 7, their men, agents, servants, and representatives claiming through the defendants 1 to 7 from alienating the suit property by using the non-est Sale Deeds in Nos.10567 of 2012, 456 of 2013 & 457 of 2013 in any manner.



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3. On entering appearance, the defendants 3 to 7 took out an application for rejection of plaint stating that the suit is barred by limitation.

4. According to them, the sale deed was executed by defendants 1 and 2 in favour of defendants 3 to 7 on 18.01.2013, whereas the suit had been presented only on 12.06.2017 and therefore, it is barred by limitation. Hence, they sought for rejection of plaint.

5. To this application, the plaintiffs filed a counter stating that the property belonged to one N.S.Ramadoss, who died on 28.09.2015. According to them, N.S.Ramadoss had appointed the 1st defendant as the power of attorney, and thereafter he had cancelled the power of attorney on 22.09.2008. They would state that after the cancellation of power of attorney, the 1st defendant had no right to deal with the property as the agent of N.S.Ramadoss. They would state that 5 years after the cancellation of power of attorney, on 22.08.2012, the power agent viz., the wife of the 2nd defendant, executed a sale deed in favour of her husband and he, in turn, alienated the property in favour of defendants 3



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to 7. They would plead that they came to know of the fraudulent activities only in May 2017 and hence, they would plead that the suit is in time.

6. The learned Trial Judge went through the averments made in the plaint and came to a conclusion that since limitation is a mixed question of law and fact, the same can be gone into only at the time of trial, and held that it is not a matter for rejection at the threshold. Aggrieved by the same, the present revision.

7. Heard Ms.Y.Kavitha for the petitioners, Mr.M.Selvaraj for respondents 1 to 4 and Dr.S.Suriya for respondents 7 to 9.

8. In matters relating to rejection of plaint, the averments made in the plaint has to be taken to be true. In other words, on going through the plaint, taking the plaint at its face value, it must be shown that the plaint is barred by time.

9. Ms.Y.Kavitha would strenuously argue that she has records to substantiate that Ramadoss and his legal representatives have been aware of the transactions as early as in 2012, and therefore, the presentation of



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the plaint in the year 2017 is hopelessly barred.

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10. Sitting on revision against under Order VII Rule 11, neither can I look into the defence that is taken by the defendants nor look into the documents filed by them. May be it is true that the legal representatives were aware, but, unless and until, the said statements are found in the plaint, I cannot attribute knowledge to the legal representatives of the deceased Ramadoss. The success of a suit also does not govern the principles of Order VII Rule 11. It is a plea in demurrer and in such a plea, the statements that is made in the plaint is taken to be true. Paragraph 19 of the plaint states that the plaintiffs came to know about the alleged fraudulent sale deed only in May 2017. If that date is taken to be true, then the presentation of the plaint on 12.06.2017 necessarily would have to be treated as on time. Needless to add, in case the defendants take the plea of limitation as a defence in the written statement, it is for the Court to frame the issue and try it at the time of trial.

11. With the above observations, the Civil Revision Petition is



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dismissed. No costs. Consequently, connected miscellaneous petition is
also dismissed.

23.04.2024

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation : Yes / No

Sgl

To

Additional District Munsif Court,
Poonamallee.



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V.LAKSHMINARAYANAN, J.

Sgl

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