



C.R.P.No.1841 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.1841 of 2023
and C.M.P.No.11801 of 2023

1.Deivasigamani
2.Kavin
3.Arun
4.K.N.Subramani
5.Usha Nandhini
6.Minor.Sanjai (represented by his Father
K.N.Subramani) ... Petitioners

-Vs-

1.N.Pappathi
2.N.Sankar
3.Sangeetha ... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to set aside the fair and final order dated 17.03.2023 passed in I.A.No.8 of 2022 in O.S.No.62 of 2022 on the file of the learned District Munsif Court, Perundurai by allowing the present civil revision petition.

For Petitioners : Mr.M.Guruprasad
For Respondents : Mr.Kanaka Subramaniam and
Mr.R.P.Ruban Chakravarthy-for RR 1 and 3
R2 - Served, no appearance

ORDER

This civil revision petition arises against the order passed by the learned

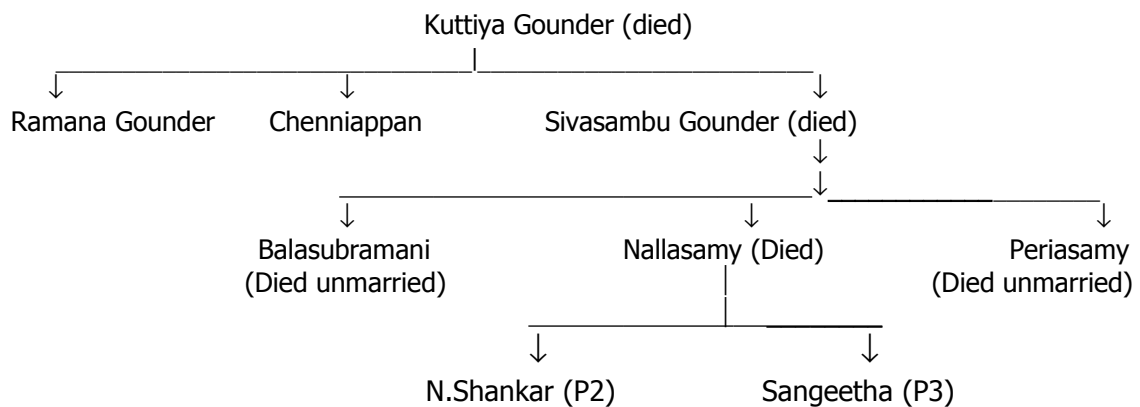


C.R.P.No.1841 of 2023

District Munsif at Perundurai in I.A.No.8 of 2022 in O.S.No.62 of 2022.

WEB COPY

2. O.S.No.62 of 2022 is a suit presented for declaring that the sale deed executed by one Pavayammal in favour of the predecessor-in-interest of the defendants on 14.02.1973 as null and void and unenforceable, for declaring the sale deed executed by the defendants 7 to 12 in favour of the fourth defendant as null and void and for similar reliefs with respect to the documents executed by the other defendants. The plaint proceeds that the suit property belonged to one Kuttiya Gounder, who purchased the property on 14.08.1928 in Document No.2700 of 1928. Kuttiya Gounder died, leaving behind as legal representatives Ramar Gounder, Chenniappan and Sivasambu Gounder. For a ready understanding the genealogical tree is extracted hereunder:



3. The plaint proceeds that the widow of Sivasambu Gounder, who came across the property as a legal representative of Sivasambu Gounder alienated the property as a guardian in favour of certain third parties, who are predecessors-in-interest of the defendants. The sales were made on 14.02.1973 and 20.06.1974.



C.R.P.No.1841 of 2023

Challenging the sale as pointed out above, the present suit had been filed.

WEB COPY

4. On service of summons, the defendants 1 to 6 filed an application that the suit is hit by limitation from the very reading of the plaint. They would state the registered sale deeds being of the years 1973 and 1974 are vintage to the present suit, and challenging the same in 2022 is barred by time. This application for rejection of plaint is received as I.A.No.8 of 2022. After receipt of a counter from the plaintiffs, the learned District Munsif at Perundurai dismissed the application holding that as limitation being mixed question of law and fact, it can be decided only after full trial, against which the defendants are on revision before me.

5. Heard Mr.M.Guruprasad for the civil revision petitioners and Mr.Kanakasubramaniam and Mr.R.P.Ruban Chakravarthy for the respondents.

6. It has been settled by a catena of decisions of the Supreme Court that a plaint can be rejected on the ground of limitation if by a reading of the plaint itself the Court can come to a conclusion that the suit is barred. Therefore, I am not going to look into the written statement filed by the defendants and am going by the averments in the plaint.

7. Para 6 of the plaint admits that Pavayammal, wife of Sivasambu Gounder is the mother of Balasubramani, Nallasamy and Periasamy. She had alienated the



C.R.P.No.1841 of 2023

property on 14.02.1973 and 20.06.1974. The alienations have been made by way of registered documents. Nowhere in the plaint does it state that Balasubramani, Nallasamy and Periasamy had taken any steps to set aside the sale deed on attaining majority. It is not in dispute that Nallasamy also passed away on 07.09.2021. He did not take any steps from 1973 to 2021 to set aside the sale. It was after his death that his legal heirs have presented the plaint.

8. The provision of law which applies for setting aside a transfer of property made by a guardian of a ward is found under Article 60 of the Limitation Act. The period of limitation is three years from the time the ward attains majority. Nowhere in the plaint does it say that the wards Balasubramani, Nallusamy and Periasamy had presented a suit to set aside the sale. They had attained majority, they were happily married, they begot children and they also passed on to meet their maker. Thereafter, Pavayammal's grandchildren seek to set aside the sale.

9. Even If I were to bring in Article 60(b), the period of limitation is three years from the time the ward attains majority. It is not in dispute, as is seen from the plaint, that the first plaintiff is 62 years, the second plaintiff is 39 years and the third plaintiff is 37 years. All of them are way beyond the age of majority and they also did not present the suit within a period of three years from attaining majority. It is settled position of law if the suit is barred against one of the wards, it is barred against the other wards also.



C.R.P.No.1841 of 2023

WEB COPY

10. Under these circumstances, when the suit is barred against Balasubramani, Nallusamy and Periasamy, assuming that they are alive today, their children cannot present the suit and maintain it. Consequently, this is a simple application of Article 60 of the Limitation Act to the suit. A bare reading of the plaint shows that the suit is barred. Therefore, I have no other option than to set aside the order passed by the learned District Munsif, Perundurai in I.A.No.8 of 2022 in O.S.No.62 of 2022 dated 17.03.2023. This civil revision petition is allowed and the suit in O.S.No.62 of 2022 will stand rejected. No costs. Consequently, connected miscellaneous petition is closed.

23.07.2024

Index : Yes/No

Neutral Citation : Yes/No

KST

To

The District Munsif
Perundurai.



WEB COPY



C.R.P.No.1841 of 2023

V. LAKSHMINARAYANAN, J.

KST

C.R.P. No.1841 of 2023

23.07.2024