



C.R.P.(NPD)No.2282 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(NPD)No.2282 of 2023

and

C.M.P.No.13811 of 2023

1.Shankar

2.Santhoshkumar

3.Anukshaa

.. Petitioners

Vs.

1.Sujatha

2.M.Sujatha

3.R.Susainathan

Kavitha (Died)

4.Aadithiaa Educational Trust

10th Main Road,

Ram Nagar South Extension,

Pallikaranai (Opposite Lanson Showroom),

Chennai



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5.A.P.Murthy

6.The Joint Sub Registrar – I,
District Registrar Cadre,
Chennai South District,
Jenis Street, Saidapet,
Chennai

.. Respondents

Prayer : The Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order, dated 10.04.2023, passed in Un-numbered E.A.Sr.No.2212 of 2023 in E.P.No.161 of 2017 in O.S.No.607 of 2014 on the file of the Principal District Munsif at Alandur.

For Petitioners : Mr.R.Dhanasekar

For R1 : Mr.C.Franco Louis

For RR2 to 4 : Not Ready in Notice

For RR5 & 6 : Mr.R.Rajarajan

ORDER

The present Civil Revision Petition arises against an order passed by the learned Principal District Munsif at Alandur in Unnumbered E.A. SR.No.2212 of 2023 in E.P.No.161 of 2017 in O.S.No.607 of 2014 dated 10.04.2023.

2. For the sake of convenience, the parties will be referred to as per their rank in the suit.



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WEB COPY 3. O.S.No.607 of 2014 is a suit for declaration filed by the 1st respondent herein as against respondent Nos.2 to 7.

4. This suit was based on the fact that the plaintiff had purchased the property through her Power of Attorney from the previous owner one Elizabeth Aria on 21.08.2000. Impersonating before the Sub Registrar as if the plaintiff had appeared and had alienated the property, a sale deed had been created on 28.11.2001. By this sale deed, the property was said to have been sold by the impersonator in favour of the 2nd defendant/R.Susainathan. The said R.Susainathan had executed a Power of Attorney in favour of one Kavitha/the wife of the 1st civil revision petitioner and the mother of the 2nd and 3rd civil revision petitioners. This suit was taken on file by the District Munsif Court at Alandur as O.S.No.607 of 2014.

5. Summons were issued to all the defendants but the defendants remained *ex parte*.



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6. The Court, thereafter, recorded the evidence of Mr.P.S.Sundar/the present Power of Attorney of the 1st respondent who marked Ex.A1 to Ex.A11, and decreed the suit as prayed for on 18.11.2016. One of the reliefs sought in the suit was a mandatory injunction directing defendant Nos.2 to 4 to remove the compound wall constructed around the suit schedule mentioned property. Since this portion of the decree remained unsatisfied by the defendants, the decree holder left with no other option had initiated an execution proceeding in E.P.No.161 of 2017.

7. In the said execution petition, an Amin was ordered to go over to the property, and hand over the possession. At that stage, the civil revision petitioners preferred an application in Un-numbered E.A.SR.No.2212 of 2023. It is their case that Kavitha had passed away on 14.11.2021 and therefore, her legal heirs must be impleaded as the parties to the suit. The learned Principal District Munsif would have nothing to do with this, and dismissed the petition as not maintainable. Challenging the same, the present Civil Revision Petition has been presented before this Court.



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8. Heard Mr.R.Dhanasekar, appearing on behalf of the petitioners, Mr.C.Franco Louis, appearing on behalf of the 1st respondent and Mr.R.Rajaraman, appearing on behalf of the 5th and 6th respondents.

9. Mr.R.Dhanasekar would submit that the petitioners being the legal representatives of the deceased 3rd defendant/3rd judgment debtor, they are entitled to come on record. He would state that the dismissal of the application at numbering stage itself is untenable since they have right, title and interest over the property. He would also state that an application has been filed to set aside the *ex parte* decree in I.A.No.1 of 2022 in O.S.No.607 of 2014 in pursuance thereof.

10. Mr.C.Franco Louis would draw my attention to the sale deed, dated 21.08.2000, and the subsequent documents, dated 28.11.2001 and 29.11.2001, to state that the alleged sale deed executed by the impersonator 1st defendant/Sujatha in favour of the 2nd defendant/R.Susainathan is actually an incursion in the records of the Sub Registrar. He would state that the original documents, which were actually registered, are the mortgage deed executed by one Manickavel in favour of one Sakthivel, and it is not a



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sale deed with respect to the suit schedule mentioned property. He would state that a charge sheet has been filed before the Metropolitan Magistrate, Land Grabbing Court at Periyamedu, and the same is at the stage of trial. He would state that there is no merits in the petition and therefore, seeks dismissal of the revision.

11. I have carefully considered the arguments on either side, and perused the records available.

12. Looking at the document executed by the 1st defendant in favour of the 2nd defendant, it is clear that the sale deed, dated 28.11.2001, is in pursuance of the sale deed executed by Elizabeth Aria in favour of M.Sujatha dated 21.08.2000. The Court below had gone into this issue, and had declared that this sale deed is a forged and a fabricated document, and had granted a decree on 18.11.2016.

13. The claim of the civil revision petitioners cannot be higher than that of Kavitha/the 3rd defendant. S.Kavitha/the 3rd defendant in the suit was only the Power of Attorney of the purchaser of the document, dated



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28.11.2001, namely R.Susainathan. The Power of Attorney is also said to be the general Power of Attorney. In terms of Section 201 of the Indian Contract Act, a power terminates on the death of either the principal or the agent. The *ex parte* decree was passed on 18.11.2016, the Power of Attorney did nothing between 18.11.2016 till her death in 14.11.2021. On that date, the power granted in her favour by the 2nd defendant/R.Susainathan stood terminated. There was nothing she could convey by virtue of being the power of attorney in favour of her legal representatives.

14. Under the Succession Act, what is conveyed is only the right, title or interest that the party has in a movable or immovable property and not the role of being the power agent for a third party. The power having been terminated on the death of Kavitha, her legal representatives, namely the civil revision petitioners, are neither necessary nor proper parties to the proceedings.

15. As stated by the learned Principal District Munsif, this seems to be a classic case of dragging on the proceedings in order to squat on the property belonging to another. The Courts of law are not meant for such devious purposes. I do not find any error in the order passed by the learned



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Principal District Munsif at Alandur in Un-numbered E.A.SR.No.2212 of 2023 in E.P.No.161 of 2017 in O.S.No.607 of 2014 dated 10.04.2023.

16. The learned Principal District Munsif at Alandur is requested to take note of the dismissal of this revision, and ensure that the decree holder gets the benefit of the decree obtained by her at the earliest and in any event before 30.09.2024.

17. Accordingly, the Civil Revision Petition stands dismissed. No costs. The connected Civil Miscellaneous Petition is closed.

01.07.2024

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

V. LAKSHMINARAYANAN, J.

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To

The Principal District Munsif,



Alandur

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