



C.R.P. No. 2853 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2024

CORAM

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

C.R.P. No. 2853 of 2024

and

C.M.P. No. 15183 of 2024

Natar Raman (Died)

1. Jayachithra

2. Minor.Yogana

3. Minor. Navya

4. Minor. Sai Harivel

(Minors represented by
guardian/mother Jayachithra)

... Petitioners / Petitioners / Plaintiffs

Vs.

Vetrivel

... Respondent / Respondent / Defendant

PRAYER: Civil Revision Petition is filed under Section 227 of the Constitution of India, to set aside the order dated 12.04.2024 made in I.A. No. 4 of 2023 in O.S. No. 576 of 2018 on the file of the III Additional District Judge, Coimbatore.

For Petitioners : Mr. R.Venkatesh

For Respondent : Mr. B.Rajesh



C.R.P. No. 2853 of 2024

ORDER

This Civil Revision Petition arises against the order dated 12.04.2024 passed by the learned III Additional District Judge, Coimbatore in I.A. No. 4 of 2023 in O.S. No. 576 of 2018.

2. The civil revision petitioners are the legal representatives of the original plaintiff one Natar Raman. The said Natar Raman presented O.S. No. 576 of 2018 seeking for a declaration that the sale deed executed by him, on 23.11.2015 in Document No. 6703 of 2015 on the file of the Joint I Sub-Registrar Office at Coimbatore, is null and void.

3. After the service of summons, the defendant has filed a detailed written statement. Unfortunately, the sole plaintiff passed away on 16.02.2022. His legal representatives brought themselves on record and are today arrayed as plaintiffs 2 to 5. Pending the litigation, they would plead that subsequent development has taken place by presentation of private complaints as against the original plaintiff before the learned Judicial Magistrate Court at Virudhunagar in C.C. No. 69 of 2018, C.C. No. 14 of 2019, C.C. No. 140 of 2019, C.C. No. 157 of 2019, C.C. No. 247 of 2019, C.C. No. 370 of 2019, C.C. No. 141 of 2020, C.C. No. 267 of 2020, C.C. No. 285 of 2020 and C.C. No. 286 of 2020. They would seek to file a reply statement bringing it to the



notice of the court, the developments that have taken place after the presentation of the suit. In order to bring this on record, they took out an application in I.A. No. 4 of 2023. This application was stiffly opposed by the respondent by going on record through the counter affidavit. The learned III Additional District Judge, after perusal of the affidavit, petition and counter, came to a conclusion that they were contradictory pleas and therefore, dismissed the petition. Hence, the Civil Revision before this court.

4. Heard Mr. R. Venkatesh, learned counsel for the civil revision petitioners and Mr. B. Rajesh, learned counsel for the respondent.

5. Counsels would reiterate the submissions that were made on behalf of the parties before the Court below.

6. I have carefully perused the papers and analysed the arguments of both the counsels.

7. An application under Order VIII Rule 9 of CPC must be given a liberal treatment. This is because whatever possible pleading that a party seeks to bring before the Trial Court should be permitted by Court. In order to let in



evidence, the parties would have to submit the relevant pleas before the Court.

This is because, a defendant must not be taken by surprise.

WEB COPY

8. It is here that I have to consider the argument of Mr. B.Rajesh. He would plead that the legal representatives are taking a fundamentally different approach than that were taken by the original plaintiff-Natar Raman. According to Mr. B.Rajesh, the legal representatives of the original plaintiff are today pleading that no sale deed was executed but it was only for the purpose of security. Whereas, the original plaintiff had agreed that he had executed the document only as a sale deed. This contradiction, he would state, is fatal to the case of the plaintiff.

9. A perusal of the plaint would show that in paragraph no. 4 of the plaint, the original plaintiff had specifically pleaded that the impugned sale deed had been executed only for the purpose of security and not with an intention to convey title to the sole defendant. This stand is not given up by the legal representatives, but it is only amplified by them by filing a reply statement. In the reply statement, the plea that the sale deed was only a security for a loan transaction continues to hold good. The factum that criminal proceedings had been initiated against Natar Raman subsequent to the presentation of the suit, is sought to be brought on record.



C.R.P. No. 2853 of 2024

WEB COPY

10. Mr. B.Rajesh would contend that the compromise that had been entered into between the parties on 28.04.2017 would show that such a plea is a false one. Whether there were two compromises or only one compromise is a matter which has to be proved at the time of trial. Suffice to state, for the disposal of the revision, the plaintiff seeks to bring on record of some additional facts which will help prove the case.

11. At this stage, I cannot go into the validity or otherwise of the plea that has been raised by the respective parties. Taking a liberal approach, to enable the plaintiff to bring forth all the facts that they feel would be necessary to prove their case, I am of the view that the order made by the learned III Additional District Judge at Coimbatore in I.A. No. 4 of 2023 in O.S. No. 576 of 2018 dated 12.04.2024 deserves to be set aside.

12. In the result, the Civil Revision Petition is allowed and the defendant is entitled to file a reply/rejoinder to the new reply statement filed by the plaintiffs.

21.08.2024



C.R.P. No. 2853 of 2027

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No
pal/kmk

To

The III Additional District Judge, Coimbatore.



WEB COPY



C.R.P. No. 2853 of 2024

V.LAKSHMINARAYANAN, J.,

pal

C.R.P. No. 2853 of 2024

21.08.2024