



CRP. No. 1214 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21-12-2024

CORAM :

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Civil Revision Petition No. 1214 of 2021

and

C.M.P.No.9380 of 2021

N. Venkatesan

.. Petitioner

Versus

1. U. Balasubramaniam,
S/o.Late M. Ulaganatha Gramani,
No.25/1A, Selvazhimangalam Village,
Sriperumbudur Taluk, Kancheepuram District
Rep. by his Power of Attorney N.S.Ganesh,
S/o.E.Sekar, No.9, Dayasadan Street,
Nerkundram, Chennai – 600 107.

2. N. Kasiviswanathan

3. N.Ramesh

.. Respondents

Civil Revision filed under Article 227 of Constitution of India, to strike off the Complaint in O.S. No. 4436 of 2019 on the file of the II Additional City Civil Court, Chennai.

For Petitioner : Mr. P. Dinesh Kumar

For Respondent : Ms. Louisal Ramesh for R-1
R-2 & R-3 - vacated

ORDER

This Civil Revision has been filed to strike off the Complaint in O.S. No. 4436 of 2019 on the file of the II Additional City Civil Court, Chennai.

2. The Revision Petitioner is the first Defendant in the suit in O.S.

No. 4436 of 2019. The Respondents 2 and 3 in this Civil Revision Petition are



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Defendants 2 and 3 in the suit. The first Respondent herein is the Plaintiff, who filed the said suit in O.S. No. 4436 of 2019 for a declaration to declare that the decree obtained by the Defendants in C.S. No. 510 of 1984 dated 17.10.1995 is non-est and not binding on the Plaintiff and for a consequential permanent injunction restraining the Defendants from interfering with the peaceful possession and enjoyment of the suit scheduled property.

3. As per the plaint averments, one Kandasamy Gramani was the owner of vast extent of lands in various survey numbers in Thiruvananthapuram Village. Some of the lands were purchased by Kandasamy Gramani through a registered sale deed dated 23.06.1960 registered as document No. 1507 of 1960 on the file of Sub-Registrar, Saidapet. Later, Kandasamy Gramani prepared a layout in respect of 14.16 acres and obtained necessary permission from the competent authority and named the layout as Sivagamipuram layout. In the year 1961, Kandasamy Gramani also sold various plots and retained some plots. On 02.11.1960, Kandasamy Gramani had executed a Will bequeathing the property purchased by him as well as those lands inherited from his father in favour of his sons K. Ranganathan, K.S. Mani, K. Nithyanantham and K. Balasubramaniam. The Will was duly probated before this Court in OP No. 201 of 1972. Some of the lands not covered in the Will



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were orally partitioned among the legal heirs of Kandasamy Gramani viz., Rajammal, Vitibai, Thirupuram Ammal, Mohanambal, Sundarambal, K.S.Mani, K.Ranganathan, K.Nithyanantham and K.Balasubramaniam. In such partition, the plot in T.S. No. 140/1 corresponding to Survey No.142/13 was allotted to U. Thirupurammal. Subsequently, the said Thirupurammal executed a deed of settlement dated 10.03.2014 registered as document No. 2774 of 2014 in favour of her son U.Balasubramaniam, who is the Plaintiff. While so, when the power agent of the Plaintiff inspected the land, it was noticed that the Defendants had put up a name board in the property. Immediately, the power agent of the Plaintiff lodged a complaint with the jurisdictional police and sought for removal of encroachments made by the Defendants. On the basis of such a complaint, an enquiry was conducted in which the Defendants had also participated. However, the Defendants sought time to produce certain documents but they did not produce any document. However, the Defendants filed a Writ Petition seeking to issue a Writ of Mandamus directing the Respondents 1 to 3 therein to take appropriate action against the power agent of the Plaintiff and to give protection to the property owned by the Plaintiff. In the Writ Petition, the Defendants relied on the judgment passed by this Court in Civil Suit No. 510 of 1984. The documents enclosed in the typed set further revealed that the suit ended in compromise



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whereby the land in Survey No.142/13 measuring 18 cents and 142/9 measuring 3730 square feet was purchased by the Defendants herein for a total sale consideration of Rs.75,000/-. According to the Plaintiff, the property worth several crores was allegedly purchased for Rs.75,000/-. The judgment in the Civil Suit No. 510 of 1984 reveals that one K.K. Srinivasan executed a Will bequeathing the above lands in favour of K.G. Srinivasan. According to the Plaintiff, the said K.G. Srinivasan is none other than one of the vendors of the property conveyed to Kandasamy Gramani, while so K.K. Srinivasan has no right to execute the Will. Therefore, the judgment and decree dated 17.10.1995 is a collusive decree, which will not bind the Plaintiff in any manner.

4. On notice in the suit, the first Defendant had filed his written statement denying the plaint averments. According to the first Defendant the suit was filed based on a forged and fabricated legal heir ship certificate. It is also stated that the Revision Petitioner herein had filed I.A. No. 1 of 2019 in O.S. No. 4436 of 2019 for the relief of injunction restraining the Plaintiff from alienating the suit property. The trial court granted an interim injunction on 17.07.2019 against which the Plaintiff filed Civil Miscellaneous Appeal No. 4356 of 2019 before this Court. By judgment dated 25.02.2020, this Court,



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after elaborate discussion, dismissed the Appeal. It is in the light of the above, the Revision Petitioner has filed the present Civil Revision Petition.

5. The learned Counsel for the Revision Petitioner submitted that the Petitioner's mother/Indirani had entered into a sale agreement with one K.G. Srinivasan on 11.12.1975 for Rs.75,000/- per acre and Rs.10,000/- was paid by her as advance. On 13.10.1980, the landlord died intestate and the Petitioner's mother had requested his legal heirs to receive the balance sale consideration but they denied. Subsequently, the Petitioner's mother died intestate leaving behind her legal heirs viz., husband and sons including Petitioner herein. They filed a Suit in C.S. No. 510 of 1984 before this Court, seeking a relief of specific performance of the sale agreement entered into between their mother and K.G. Srinivasan. On 17.10.1995, this Court decreed the Suit based on the compromise memo filed by both parties. Even though, the legal heirs of K.G.Srinivasan had received the balance sale consideration as per the compromise memo, they had not come forward to execute the sale deed in favour of the Petitioner and his brothers. Therefore, they were constrained to file E.P.Nos.14 of 2006 and 265 of 2007 for execution of decree in C.S.No.510 of 1984 dated 17.10.1995. As per the decree of this Court, the sale deed was executed in favour of the Petitioner and his brothers in Document



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No.2702 of 2015 before the Sub Registrar Office at Saidapet through Assistant Registrar, High Court. Till date, the Petitioner is in possession of the Suit property. While so, it cannot be claimed that the Plaintiff is the owner of the land in question.

6. The learned Counsel for the Revision Petitioner further submitted that the first Respondent herein claims that the property originally owned by Kandasamy Gramani and U. Thirupurammal is one of the legal heirs of Kandasamy Gramani. According to the learned Counsel, the legal heir certificate itself is forged. Based on the forged and fabricated legal heir certificate, it is claimed that the said Thirupurammal had executed the settlement deed dated 10.03.2014 in favour of her son/ U. Balasubramanian/Respondent herein. The first Respondent herein had executed a General Power of Attorney dated 17.03.2014 in Document No. 2941 of 2014 by appointing one N.S. Ganesh and U. Chandrasekar as his Power Agent. The said power of attorneys illegally trespassed into the property in question and destroyed the servant quarters and other constructions.

7. The learned Counsel for the Revision Petitioner also submitted



that the suit in C.S. No. 352 of 2015 filed by the first Respondent before this Court was transferred to the file of the learned II Additional Judge, City Civil Court, Chennai and re-numbered as O.S.No.4436 of 2019. The Revision Petitioner had filed written statement denying the plaint averments. In the mean while, the Power of Attorney Agents of the Plaintiff attempted to alienate the Suit property. Therefore, the Revision Petitioner filed I.A. No. 1 of 2019 in O.S.No.4436 of 2019 for an order of interim injunction to restrain the Plaintiff, his men, agents, servants or any other third party from in any manner encumbering or alienating the suit property. The learned II Additional Judge, City Civil Court allowed the I.A.No.1 of 2019 in O.S.No.4436 of 2019 dated 17.07.2019. Aggrieved by the same, the first Respondent herein had preferred C.M.A. No. 4356 of 2019 before this Court which was dismissed with certain directions on 25.02.2020. The learned Counsel for the Revision Petitioner invited the attention of this Court to the Judgment of this Court in CMA.No.4356 of 2019 dated 25.02.2020 which reads as follows:

“7. In this regard, this Court, on the earlier date of hearing, asked Mr.T.M.Pappiah, learned Special Government Pleader, to enquire on the genuineness of the alleged Legal Heir Certificate. Today, he produced a communication dated 24.02.2020 received from the Tahsildar, Mylapore Taluk, Chennai-600 028, wherein, it is stated that the alleged Legal Heir Certificate is not genuine. The said communication is taken on record.

In the reference cited, it is requested the Genuineness of Legal Heir Certificate D.Dis. (C)/6487/9064, dated 18.06.1990. In this regard, it is informed that the above Certificate is not genuine.



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Side) was also asked to enquire on the complaint, if any, lodged by the 1st Respondent against the fraudsters in the case on hand.

9. Today, learned Counsel for the Appellant fairly submitted that, he advised his client not to pursue this Appeal any further, as there are no bonafides in this case. On instructions, he sought permission of this Court to withdraw this Appeal with liberty to the Appellant to proceed further.

10. Though, this Court accepts the fairness of the learned Counsel for the Appellant, the conduct of the Appellant in relying upon a forged and fabricated Legal Heir Certificate to prove his claim is reprehensible. As the Appellant has approached this Court with unclean hands, this Court is not inclined to permit him to withdraw this Appeal. Moreover, the fabricated Legal Heir Certificate will have a bearing on all the litigations connected to the case on hand, pending before various forums.

11. Hence, this Court is inclined to dismiss this Appeal on the sole ground of fraud play by the Appellant, with costs. However, this Court refrains from imposing costs, only on account of the fairness expressed by Mr.S.Xavier Felix, learned Counsel for the Appellant.

12. As the alleged Legal Heir Certificate is furnished along with the Settlement Deed dated 10.03.2014 vide Document No.2774/2014, the Settlement Deed becomes void. The Revenue Department, based on the communication dated 24.02.2020 sent by the Tahsildar, Mylapore Taluk, Chennai, shall make entries in the necessary Index with regard to the Settlement Deed dated 10.03.2014 vide Document No.2774/2014, as 'null and void', within five working days from the date of receipt of a copy of this order.

13. At the end of arguments, Mr.T.M.Pappiah, learned Special Government Pleader ensured that, necessary enquiry will be made as regards issuance of the forged Legal Heir Certificate and disciplinary action will be taken against the staff concerned. 14. Also, Mrs.P.Kritika Kamal, learned Government Advocate (Criminal Side), ensured that, speedy action will be taken by the Police Department against the fraudsters involved in this case.

15. If the legal heirs enlisted in the forged Legal Heir Certificate or the person who sought issuance of such Legal Heir Certificate are alive, criminal action shall be proceeded against them, so that the issue is brought to a logical end. The Criminal Court shall impose imprisonment and not let them go only with payment of fine. This is to signal all the fraudsters that, Law is strict and imprisonment is the only way to punish them for their fraudulent act.

16. This Court makes it clear that, if the person responsible for issuance of the alleged Legal Heir Certificate is still in service, necessary enquiry shall be made against him/her and terminal benefits, if not already granted, shall not be disbursed, till the issue comes to a logical end. This does not mean that, he/she is exonerated from criminal



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17. Action taken by the Police Department as well as the Departmental action initiated against the staff, who are responsible for fabrication of the Legal Heir Certificate bearing D.Dis.(C)/6487/9064, dated 18.06.1990, shall be reported to this Court. Only on the aspect of criminal action and departmental proceedings, Registry is directed to list this matter 'for compliance' before this Court, in July 2020.”

8. Therefore, the subsequent developments based on the Legal Heirship Certificate are also void. The learned Counsel for the Revision Petitioner further submitted that the cause of action for the Plaint itself is based on bogus and void document, including the fabricated settlement deed dated 10.03.2014 registered as Document No.2774/2014. Therefore, the Plaint in O.S. No. 4436 of 2019 is liable to be struck off.

9. Per contra, the learned Counsel for the first Respondent submitted that the suit property originally belonged to Gopala Pillai and after his death, his son Gangadhara Pillai inherited the same. He had one daughter/Manonmani Ammal and son/Srinivasa Pillai. The husband of Manonmani failed to discharge the loan. The property was sold in public auction to one Veerabai. In the mean while, the said Srinivasa Pillai attained majority, sold the property to Kandasamy Gramani in I.P. No. 115 of 1952. Hence, the legal heirs of Veerabai have filed partition Suit against Srinivasa Pillai and Kandasamy Gramani before the learned District Munsif, Poonamallee which was transferred to the file of the District Munsif,



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Chengalpattu. The learned District Munsif passed an order in favour of Kandasamy Gramanis and Srinivasa Pillai. Against which, the legal heirs of Veerabai had preferred A.S.No.133 of 1977 which was also dismissed. Aggrieved by the same, the legal heirs of Veerabai have not preferred Second Appeal. Therefore, it is clear that the title of Kandasami Gramani has become final. Meanwhile, Kandasamy Gramani died after executing a Will and his legal heirs have filed O.P.No.201 of 1972 to probate the same before this Court. He further submitted that in the written statement filed by the Revision Petitioner, it was stated that originally K.K.Srinivasa Pillai purchased some property in and around Thiruvannamiyur. Subsequently, he went to Pune. Therefore, he executed a Will in favour of his brother's son/K.G.Srinivasa Pillai and the same was not probated till date. The said K.G.Srinivasa Pillai intended to sell the property to Indrani Ammal who is the mother of the Defendants. The learned Counsel for the first Respondent also invited the attention of this Court to Paragraph No.5 of the Complaint in C.S. No. 510 of 1984, which reads as follows:

"According to Thiru [K.G.Srinivasan](#), that he was in possession and enjoyment of the land from less onwards after the death of Thiru K.K Srinivasan, and he got patta from the settlement authorities and he has perfected his title by adverse Possession. There was a case pending in AS No 133 of 1977 on the file of the District Court, Chengalpattu in respect of certain items of the property."



10. Therefore, it is clear that A.S. No. 133 of 1977 was disposed in the year 1978 but in the Complaint, it shows that it was still pending.

11. The learned Counsel for the first Respondent also invited the attention of this Court to the compromise decree in C.S.No.510 of 1984, wherein it was stated that there is no ingress and egress for the Suit property which stands in the name of Kandasamy Gramani. Even though compromise decree was passed, the legal heirs of Srinivasa Pillai had not executed any sale deed for more than 12 years. Thereafter, they filed Execution Petition before this Court. In the mean while, they trespassed into the property and therefore, W.P. No. 27991 of 2014 was filed before this Court which was also disposed with certain direction to establish the title by way of Civil Suit. Hence, C.S. No. 352 of 2015 was filed and it was subsequently transferred to the file of the learned II Additional Judge, City Civil Court and re-numbered as O.S. No. 4436 of 2019. He further submitted that the said Thirupurammal is the daughter of Kandasamy Gramani. There is also a partition deed dated 11.11.1949 in which Kandasamy Gramani had allocated certain property to his daughter/Thirupurammal and others. Since it is claimed that the legal heirship certificate itself is bogus, the Power of Attorney of the first Respondent applied for a fresh legal heir certificate and obtained and it was produced before the Police. The Tahsildar also enquired and certified that the said



Thirupurammal and her brothers are the legal heirs of Kandasamy Gramani.

While so, the contention of the Revision Petitioner that the said Thirupurammal is not the legal heir of Kandasamy Gramani is without any basis. The learned Counsel for the first Respondent therefore prayed for dismissal of the present Civil Revision Petition.

Point for consideration:

Whether the Complaint in O.S.No.4436 of 2019 on the file of the learned Second Additional Judge, City Civil Court is to be struck off?

12. Heard the learned Counsel for the Petitioner and the learned Counsel for the Respondents.

13. The subject suit has been filed by the first Respondent for a declaration to declare that the collusive decree obtained by the Defendants in C.S. No. 510 of 1984 dated 17.10.1995 is non-est and not binding on the Plaintiff. The subject suit has been filed in the year 2015 to declare a decree passed twenty years prior as non-est and not binding. Though the limitation Act prescribes three years time to set aside a decree etc., the first Respondent claims to have knowledge of the decree from the typed set of papers filed in

<https://www.mhc.tn.gov.in/> W.P.No.27991 of 2014. W.P.No.27991 of 2014 had been filed by the



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Revision Petitioner herein for a direction against the three official Respondents viz., The Commissioner of Police, Egmore, The Assistant Commissioner of Police, J-6, Thiruvanmiyur, Chennai – 600 011 and against the Sub Inspector of Police, J-6, Adyar Police Station, to take appropriate action on the Petitioner complaint dated 16.10.2014 in respect of the Petitioner's property at S.No.142/13, 142/9, take action on the same and thereby ensure safety and give protection to the Petitioner therein and against one private Respondent who is the Power Agent of the first Respondent. Necessary directions were passed by the Court by order dated 29.04.2016 in the said Writ Petition.

14. While so, when the first Respondent attempted to alienate the suit property the Revision Petitioner had filed I.A. No. 1 of 2019 in O.S. No. 4436 of 2019 for grant of interim injunction restraining the first Respondent from encumbering, alienating or entering into joint venture with the fourth Respondent therein or any other third party with respect to the suit schedule property. The said application was allowed on 17.07.2019. Challenging the order dated 17.07.2019, the first Respondent herein had filed C.M.A. No. 4356 of 2019 before this Court. Wherein this Court by order dated 25.02.2020 dismissed C.M.A. No. 4356 of 2019 filed by the first Respondent. During the



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pendency of C.M.A. No.4356 of 2019 this Court had called for the report of the Tahsildar, Mylapore Taluk, with regard to the genuineness of the legal heirship certificate produced by the first Respondent based on which his claim for title to the suit property rests. It turned out that the legal heirship certificate dated 18.06.1990 issued by the Tahsildar, Mylapore-Triplicane Taluk vide D.Dis(C)/6487/90 was not genuine and it was forged and fabricated. Consequently, the settlement deed dated 10.03.2014 vide Doc. No.2774 of 2014 was ordered to be struck down as null and void in the very same order passed by this Court on 25.02.2020. The reasons for such a conclusion reached by this Court in the said order dated 25.02.2020 had already been extracted supra. In view of the fact that the first Respondent's title to the suit property is based upon a forged and fabricated legal heirship certificate and the consequent settlement deed dated 10.03.2014 in Doc. No. 2774 of 2014 which had since been struck down as null and void in the very same order passed by this Court on 25.02.2020. In view of the fact that the said order had not been challenged in a higher Court of law, this Court has no hesitation to hold that there is a clear abuse of process of law. As the first Respondent had approached this Court with unclean hands the suit itself has to be thrown out.



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15. Per contra the contention of the learned Counsel for the Revision Petitioner that based upon the compromise decree dated 17.10.1995 passed in C.S.No.510 of 1984 filed for relief of specific performance, a sale deed had also been executed in favour of the Revision Petitioner herein and his brothers in the Execution Proceeding thereon by the Assistant Registrar, High Court, Chennai vide sale deed dated 11.02.2015 registered as Doc. No.2702 of 2015 on the file of the Sub Registrar Office, Saidapet. That therefore, the Revision Petitioner is in possession of the suit schedule property since 1995, when the vacant possession of the suit schedule property was handed over to the Revision Petitioner pursuant to the compromise decree and that thereafter perfected his title by virtue of sale deed executed by the Court. However, the first Respondent based on a forged and fabricated legal heirship certificate created settlement deed and has filed the present suit. Forcing the Revision Petitioner to undergo the cumbersome procedure of trial in the suit would result in great miscarriage of justice. When there is a clear abuse of process of Court by the first Respondent, there is force in the abovesaid contention of the Revision Petitioner. Therefore, in exercise of power conferred under Article 227 of The Constitution of India, this Court holds that the suit in O.S. No. 4436 of 2019 is clear abuse of process of Court resulting in gross miscarriage of justice. In such circumstances, directing the suit in O.S. No.4436 of 2019



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filed by the first Respondent to continue further would only result in irreparable hardship, ordeal and prejudice to the contesting Revision Petitioner.

16. In the light of the above discussion, the point for consideration is answered in favour of the Petitioner and against the Respondents. In the result, the Complaint in O.S. No. 4436 of 2019 on the file of the II Additional City Civil Court, Chennai is to be struck off.

In the result, **this Civil Revision Petition is allowed.** The Complaint in O.S. No. 4436 of 2019 on the file of the II Additional City Civil Court, Chennai is hereby struck off. No costs. Consequently, connected miscellaneous petition is closed.

21-12-2024

dh

Index : Yes / No

Internet : Yes / No

Speaking/non-speaking Order : Yes / No



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To

The Presiding Officer
II Additional City Civil Court
Chennai.



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SATHI KUMAR SUKUMARA KURUP, J

dh

Order made in
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