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CRP(PD).No.2597 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2024

CORAM

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

CRP(PD).No.2597 of 2023
and CMP.No.16069 of 2023

1. Ranjani
2. N.Ravi

...Petitioners

Vs.

1. Saraswathi
2. Ramesh Kumar

...Respondents

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the decretal and fair order dated 21.03.2023 passed in [I.A.No.3](#) of 2022 in [O.S.No.74](#) of 2022 on the file of District Munsif, Sullur.

For Petitioners : [Mr.V.Raghavachari](#), Senior counsel
For K.Chozhan

For Respondents : [Mr.P.Jagadeesan](#)
For Mr.A.Tamilarasan

ORDER



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This Civil Revision Petition has been filed to set aside the order dated 21.03.2023 passed by the District Munsif, Sulur, in I.A.No.3 of 2022 in O.S.No.74 of 2022.

2. The petitioners are the defendants in the suit in O.S.No.74 of 2022 and the petitioners in I.A.No.3 of 2022 on the file of the District Munsif, Sulur.

3. Before the trial Court, the respondents/plaintiffs filed a suit for permanent injunction and other consequential reliefs. The petitioners are shown as defendants 1 and 2 in the suit. According to the plaintiffs, one Ganapthy Gounder who is the 1st plaintiff's father-in-law having ancestral properties. Based upon the partition held in the year 1957, but the defendants 1 and 2 fabricated the false documents with intention to grab the properties through sale deed. In fact, the said Ganapthy Gounder is father of one Ponnusamy purchased the property in the year 1980 by selling their ancestral properties without any division of the properties are enjoying, even they purchased the properties and also enjoying the properties without any division but the 2nd defendant created a fake power of attorney and created the sale deed executed in favour of his wife/1st defendant. Hence, the plaintiffs/respondents filed the suit before the trial Court. On receipt

of the said suit, the defendants 1 and 2 have filed the application before the trial Court to reject the plaint.

4. According to the defendants, she has filed the suit in O.S.No.150 of 2012 and the same was renumbered as O.S.No.1025 of 2012 and the said suit was decreed in favour of the 1st defendant/Ranjani. Furthermore, suppressing all facts, the present suit was filed by the plaintiffs without any cause of action. Hence, he prayed to reject the plaint on the ground that non disclosure of cause of action and also the suit is barred by limitation. Furthermore, the defendants 1 and 2 claimed that they purchased the property one Ganapthy Gounder and Jawaharlal & Co through sale deed in the year 2011 and also the revenue records transferred in his name and enjoying the same, they are absolute owner of the property Hence, he prayed to reject the plaint.

5. On hearing both sides, the trial Judge concluded that the defendants also raised limitation plea that the limitation for filing of the suit has already elapsed and the limitation also to be decided only after examining detail oral and documentary evidence, it is also a mixed question of fact and law. Therefore, the said application was dismissed by the trial Judge.



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6. Challenging the same, the petitioners/defendants have filed this Civil Revision Petition before this Court.

7. The learned senior counsel appearing for the petitioners submitted that the trial Court failed to note of the fact that the respondent/plaintiffs suppressed the earlier suit in [O.S.No.1025](#) of 2012 in respect of the very same property, He further submitted that the trial Court ought to have allowed the applications and reject the plaint as the same being barred by limitation and principle of Res-judicata, abused the process of the law.

8. By way of reply, the learned counsel for the respondents/plaintiffs submitted that the earlier suit only for bare injunction and the title of the property not been declared. Therefore, the present suit as such is maintainable. Hence, he prayed for dismissal of this petition.

9. On a perusal of records, it reveals that based upon the legal heirs of the Ganapthay Gounder, the respondents/plaintiffs is the owner of the property and to that effect, they are claiming right over the suit property. Further, the defendants 1 and 2 claimed the property, based on purchase made from one Jawaharlal & Co



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and Ganapathy Gounder but according to the plaintiffs, taking into part of the sale deed documents were fabricated by the 2nd defendant/2nd petitioner herein, who is the political influence person and involved in land grabbing cases and the disputed the nature of the property and the same can be decided only at the stage of trial. Hence, the trial Judge had rightly appreciated the facts and dismissed the application, which needs no interference by this Court. Therefore, there is no illegality or infirmity in the order passed by the District Munsif, Sular in I.A.No.3 of 2022, dated 21.03.2023.

10. In view of the above, this Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

13.08.2024

Speaking / Non Speaking order
Neutral Citation : Yes/No
Index : Yes/No
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T.V.THAMILSELVI.J.

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To

1. The learned District Munsif, Sulur.

2. The Section Officer,
VR Section,
High Court of Madras.

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