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C.R.P.(PD).No.3808 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.3808 of 2024
and C.M.P.No.20892 of 2024

1. Mohana Selvaraj
2. S.Saravanan
3. S.Maheswari
4. S.Bhuvaneswari

.. Petitioners

Versus

1. B.Leela
2. B.Eswari
3. P.Suresh
4. DCB Bank Ltd.,
Represented by its Manager,
No.6, Rajaji Road,
Nungambakkam,
Chennai - 600 034.
5. The Sub Registrar,
Alandur,
SRO at Nanganallur,
Chennai - 600 061.
6. The District Collector,
Chengalpattu Collector Office,
Chengalpattu.

M.Selvaraj (died)

.. Respondents



C.R.P.(PD).No.3808 of 2024

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order in I.A.No.1 of 2022 in O.S.No.206 of 2020 on the file of Additional District Munsif Court, Alandur, dated 30.04.2024 and allow the above Civil Revision Petition.

For Petitioners : Mr.M.Muthappan,
for Mr.J.James

For Respondents : Mr.C.Sathish,
Government Advocate
for RR-5 and 6

ORDER

This Civil Revision Petition arises against the order of the learned Additional District Munsif at Alandur in I.A.No.1 of 2022 in O.S.No.206 of 2020, dated 30.04.2024.

2. The defendant Nos.2 to 5 filed an application for rejection of plaint. O.S.No.206 of 2020 is a suit (i) for declaration that the settlement deed executed by the first defendant in favour of the defendant Nos.2 to 5 is null and void; (ii) for a declaration that the sale deed executed by the defendant Nos.2 to 5 in favour of the sixth defendant is void; (iii) for further declaration that the mortgage deed executed by the sixth defendant in favour of the seventh defendant as null and void; (iv) for permanent injunction



C.R.P.(PD).No.3808 of 2024

WEB COPY

restraining the defendants from interfering with the peaceful possession and enjoyment of the plaintiffs and (v) for permanent injunction restraining the defendants from, in any manner, alienating the property.

3. The case of the plaintiffs is that the property was purchased by their grandfather, one L.P.Krishnaswamy, on 30.07.1929. They would allege that the said Krishnaswamy was enjoying the property during his life time and on his death, the property was succeeded by his wife Amirthammal. Amirthammal also died intestate and the plaintiffs' mother, K.Sakunthala succeeded to the property on the death of her parents. The said K.Sakunthala executed a Will for the suit schedule mentioned property on 17.11.2003 and she went to meet her maker on 05.05.2004. Thereafter, the plaintiffs have been in peaceful possession and enjoyment of the same.

4. All of a sudden, the defendant Nos.1 to 6 attempted to interfere with their possession in October, 2020. This constrained the plaintiffs to approach the police. Before the police authorities, a statement was made by the defendants that they are the actual owners by virtue of the settlement deed and the sale deed. It was then the plaintiffs suspected foul play and



C.R.P.(PD).No.3808 of 2024

WEB COPY

filed a petition for receipt of Encumbrance Certificate. It was then they came to know that the defendant Nos.1 to 6 inter se had fabricated a settlement deed, the sale deed and the mortgage deed. Since a cloud of suspicion was created, the suit was filed for the reliefs as aforesaid.

5. On service of summons, the defendants entered appearance and took out an application for rejection of plaint in I.A.No.1 of 2022. Their plea is that the suit is barred by time since the settlement deed is of the year 2012 and the suit is of the year 2020. They would further plead that there is no cause of action for the suit and hence, the suit is liable to be rejected as it is barred by law since it does not disclose a cause of action. The learned Additional District Munsif issued notice in this application, received a counter-affidavit and went on to dismiss the application. Hence this revision.

6. Heard Mr.M.Muthappan, learned Counsel for Mr.J.James, learned Counsel for the civil revision petitioners and Mr.C.Sathish, learned Government Advocate for the respondent Nos.5 and 6.



C.R.P.(PD).No.3808 of 2024

WEB COPY

7. Mr.M.Muthappan would contend that the settlement deed, having been executed by the first defendant in favour of the defendant Nos.2 to 5 in the year 2012 and a sale deed had been executed in the year 2018 by the defendant Nos.2 to 5, the suit is hopelessly barred by time. He would plead that Article 58 of the Limitation Act would apply and hence, the Court ought not to have taken the suit on file. Furthermore, he would plead that the defendants had been benefited with a settlement patta by the settlement Tahsildar on 29.05.1973 in terms of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 and therefore, there is no cause of action for the suit.

8. I have considered the submissions of Mr.M.Muthappan and have gone through the records.

9. As it is repeatedly stated, for the purpose of rejection of a plaint, the averments made in the plaint alone matter. The defence that is taken by the defendants, however sterling it may be, is absolutely irrelevant and not genuine while considering such an application. I have to take the averments made in the plaint to be true and proceed on that basis. The specific plea of



C.R.P.(PD).No.3808 of 2024

WEB COPY

the plaintiffs is that their grandfather, Krishnaswamy, obtained the property by way of a purchase as early as on 30.07.1929. They would plead that they have continuous title thereafter for over the period of about 80 years. They would state that the parent document, on the face of which defendant Nos.1 to 5 would rely upon, is the settlement deed and the first defendant had no right to execute a settlement deed as he had no title or interest over the property. If I were to take the averments made in the plaint to be true, if the first defendant did not have a right over the property, certainly, he cannot execute the settlement deed for the same. If the first defendant did not have title, he could not have conveyed any title to defendant Nos.2 to 5 and they, in turn, to the sixth defendant. This certainly discloses that there is a cloud over the claim of the plaintiffs and hence, there is a cause of action to present the suit.

10. Insofar as the plea of limitation is concerned, it is not the case of the defendants that the plaintiffs are parties to the settlement deed or the sale deed. The plaint clearly states in paragraph No.7 that the plaintiffs came to know about the settlement deed and the sale deed only after they lodged the police complaint, when the defendants attempted to trespass into the



C.R.P.(PD).No.3808 of 2024

WEB COPY

property on 01.10.2020. If that be the situation, the date of knowledge of the plaintiffs would have to be taken as the time for calculation of limitation. When the plaintiffs plead that they came to know about the deeds after 01.10.2020, the suit filed within a few days thereafter cannot be treated as barred by time.

11. The learned Trial Judge has given clear and cogent reasons in her order, dated 30.04.2024. It does not require any interference. This Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

23.09.2024

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs

To

The Additional District Munsif,
Alandur.



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C.R.P.(PD).No.3808 of 2024

V.LAKSHMINARAYANAN, J.

grs

C.R.P.(PD).No.3808 of 2024
and C.M.P.No.20892 of 2024

23.09.2024