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C.M.P.No.17867 of 2024

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in
C.R.P.SR.No.102660 of 2024

A.D.JAGADISH CHANDIRA, J.

This petition has been filed seeking to grant leave to the petitioners to file the civil revision petition against the settlement memo dated 02.09.2016 made in Lok Adalat Case No.249 of 2016 confirmed in judgment and decree dated 07.09.2016 made in A.S.No.20 of 2016 on the file of the I-Additional District Judge, Erode.

2. Mr.Guruprasad, learned counsel for the petitioners would submit that the petitioners 1 and 3 and their sisters namely Ramayammal, Chinnammal and Subbayammal are the legal heirs of one Chinnapa Gounder. The said Chinnapa Gounder died in the year 1952 and the petitioners 1 and 3 were in possession / enjoyment of the entire property. On 04.04.2001, some of the ancestral properties were sold to Kongu Welfare Trust through a registered sale deed. On the very same day, partition was executed between the first and third petitioners in respect of suit properties bearing R.S.Nos.828/1, 828/2, 828/3A and 828/3B through a partition deed dated 04.04.2001 vide Document No.4662/2001. The sisters of the petitioners 1 and 3 are fully aware of the same.

3. While so, during the year 2014, one of the sisters, namely Subbayammal,



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along with the children of Chinnamal, filed a suit for partition and permanent injunction against the petitioners herein in O.S.No.59 of 2014 on the file of the Subordinate Judge, Perundurai. The suit was dismissed on 03.11.2016. Against the order of dismissal, the plaintiffs preferred an appeal in A.S.No.132 of 2017 before the II Additional District Judge, Erode. The Appeal was allowed and the matter was remanded back for fresh consideration. After remand, Subbayammal along with the children of her another sister, namely Chinnamal, approached the 1st respondent herein, namely C.Balakrishnan, claiming themselves to have 2/5 share over the properties in R.S.Nos.828/1, 828/2 and 828/3 admeasuring to an extent of 10.50 Acres in Karumandisellipalayam Village, Perundurai Taluk. They offered to sell this share and created a bogus sale agreement dated 01.10.2012 for a sale consideration of Rs.1,50,000/-.

4. Subsequently, the 1st respondent herein, namely Balakrishnan, had filed a collusive suit for specific performance in O.S.No.61 of 2015 against the Subbayammal and the legal heirs of Chinnamal before the Sub Ordinate Judge, Perundurai, based on the sale agreement dated 01.10.2012. The said Subbayammal and the legal heirs of Chinnamal remained as ex-parte and allowed the 1st respondent, namely Balakrishnan, to obtain an ex-parte decree. However, the Trial Court had directed the defendants to refund the advance amount. Against the



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judgment and decree in O.S.No.61 of 2015, 1st respondent herein, namely Balakrishnan, preferred an appeal in A.S.No.20 of 2016 before the I Additional District Judge, Erode. While the appeal was pending, the parties had entered into a settlement vide Settlement Memo dated 02.09.2016 before the Lok Adalat in Lok Adalat Case No.249 of 2016 and obtained a Lok Adalat award suppressing the fact that the Sub Ordinate Court, Perundurai had dismissed the suit for partition. The petitioners were not impleaded as parties to the suit in O.S.No.61 of 2015 and they were kept in dark. Subsequently based on the Lok Adalat award which was obtained fraudulently, the properties in question have been sold to third parties who are attempting to interfere with the possession of petitioner's properties.

5. The learned counsel for the petitioners would reiterate that the Lok Adalat award obtained in Lok Adalat Case No.249 of 2016 in A.S.No.20 of 2016 before the I Additional District Judge, Erode has been obtained by fraud and collusion behind their back and it has adversely affected the rights of the petitioners. He would further submit that unless the petitioners are granted leave and permitted to challenge the Lok Adalat award obtained by fraud and collusion, they will be put to great hardship and loss.

6. Taking into consideration of the facts and circumstances of the case, the



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revision petitioners have made out a *prima facie* case. Therefore, leave is granted.

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7. Accordingly, this Civil Miscellaneous Petition stands ordered.

19.08.2024

*Note : Registry is directed to number the Civil Revision Petition,
if it is, otherwise, in order.*

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