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C.R.P.(PD).No.2883 of 2021

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 08.01.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

**C.R.P.(PD).No.2883 of 2021**

Maadhan

... Petitioner

VS

1.Vinoth Kumar

2.The Sub Registrar,  
Barur,  
Pochampalli Taluk,  
Krishnagiri District.

... Respondents

**Prayer:** Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the Fair and Decreetal order dated 18.11.2021 made in I.A.No.698 of 2021 in O.S.No.159 of 2015 on the file of District Munsif Court, Harur, Dharmapuri District.

For Petitioner : Mr.C.Prabakaran

For R1 : Mr.V.Nicholas

For R2 : Mr.C.Sathish  
Government Advocate (CS)

**ORDER**



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The Civil Revision Petition is filed challenging the order passed by the Court below allowing the application to reopen the case to enable the 1<sup>st</sup> respondent/plaintiff to examine witnesses in Ex.A2-Settlement Deed.

2. According to the 1<sup>st</sup> respondent, he filed a suit for declaration and injunction. The 1<sup>st</sup> respondent marked a Settlement Deed executed by his maternal grandfather dated 12.12.2007 as EX.A2. However, at the time of trial, due to pandemic situation, the 1<sup>st</sup> respondent failed to examine the attesor to the said document. Now, in order to examine the attesor to the said document, the 1<sup>st</sup> respondent seeks reopening of the case.

3. The said petition was opposed by petitioner herein on the ground that Settlor himself was examined on behalf of the petitioner/1<sup>st</sup> defendant as DW.4 and he denied the execution of Ex.A2. In such circumstances, the 1<sup>st</sup> respondent ought to have taken steps to examine the attesor to the document immediately. The evidence on the side of the 1<sup>st</sup> respondent was closed as early as 23.09.2019. Now, after two years, the petition has been filed to reopen the case when the matter is posted for arguments.



WEB COPY 4. The Court below on consideration of the contention of both the parties, came to the conclusion that by taking into consideration the facts and circumstances of the case, an opportunity shall be given to the 1<sup>st</sup> respondent to examine the witness and allowing of the petition would not cause any serious prejudice to the petitioner. Aggrieved by the same, the petitioner is before this Court.

5. The learned counsel appearing for the petitioner vehemently contended that Ex.A2-Settlement Deed was seriously opposed by the petitioner during trial and the Settlor himself was examined as DW.4 and he denied the execution of the document. In such circumstances, the 1<sup>st</sup> respondent should have examined the attestor to the document immediately. But after closing his evidence in the year 2019, belatedly the petition has been filed to reopen the case in the year 2021. Therefore, there is no *bona fides* in the petition filed by the 1<sup>st</sup> respondent and his main aim is to drag on the proceedings.

6. The main suit is for declaration of title and permanent injunction.



The 1<sup>st</sup> respondent herein claims right under the Settlement Deed executed by his maternal grandfather under Ex.A2 in favour of his mother. It is also the case of the 1<sup>st</sup> respondent subsequently he purchased the property settled in favour of his mother on 24.03.2008. Therefore, the Ex.A2-Settlement Deed is a vital document to prove the title of the 1<sup>st</sup> respondent.

7. Being a document, which requires compulsory attestation, the evidence of attestor to the said document is material one in deciding the controversy involved in the suit. Therefore, the Trial Court is correct in granting an opportunity to the 1<sup>st</sup> respondent to reopen the case to enable him to examine the attestors to Ex.A2-Settlement Deed.

8. Having regard to the fact that there is some delay on the part of the 1<sup>st</sup> respondent in filing the application to reopen the case, this Court is inclined to impose cost on the 1<sup>st</sup> respondent. Therefore, the Civil Revision Petition is dismissed by confirming the fair and final order passed by the Court below on condition that the 1<sup>st</sup> respondent shall pay a sum of Rs.3,000/- towards costs to the revision petitioner within a period of two weeks from the date of receipt



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of copy of this order. In case, the 1<sup>st</sup> respondent failed to pay the cost imposed within the time stipulated, the application filed by him to reopen the case in I.A.No.698 of 2021 shall stand dismissed. In case cost is paid in time, the 1<sup>st</sup> respondent is entitled to reopen the case and examine his witness (attestor to Ex.A2) as per impugned order.

9. The learned counsel appearing for the petitioner submits that the suit is of the year 2015 and therefore, there shall be a direction to the Court below to dispose of the suit within a time frame. In view of the fact the suit is of the year 2015, this Court is inclined to issue a direction to the Court below to dispose of the suit as expeditiously as possible.

10. With these observations, the Civil Revision Petition stands dismissed. No Costs.

**08.01.2024**

Index : Yes / No  
Speaking order : Yes / No  
Neutral Citation : Yes / No  
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To

- 1.The District Munsif Court,  
Harur, Dharmapuri District.
- 2.The Sub Registrar,  
Barur, Pochampalli Taluk,  
Krishnagiri District.



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**S.SOUNTHAR, J.**

dm

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