



WEB COPY



C.R.P.(NPD) No.4730 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2024

CORAM

THE HON'BLE JUSTICE N.SATHISH KUMAR

C.R.P.(NPD) No.4730 of 2024 and
C.M.P.Nos.26428, 26432 & 26433 of 2024

M.Sarojini

... 3rd Party / Petitioner

-VS-

1. Selvi

... Plaintiff / 1st Respondent

2. K.Natarajan

... 1st Defendant / 2nd Respondent

3. N.Murugesan

... 2nd Defendant / 3rd Respondent

4. Sampathkumar Muthuswamy

... 3rd Party / 4th Respondent

5. M.Vijayakumar

... 3rd Party / 5th Respondent

6. District Sub-Registrar,
Ganapathy,
33, Manikarampalayam,
Ganapathy, Coimbatore-641 006.

... 3rd Party / 6th Respondent

7. Sub-Registrar,
Coimbatore North Joint I,
102, State Bank Road,
District Collector Office Campus,
Coimbatore-641 018.

... 3rd Party / 7th Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the judgment and decree dated 24.03.2023 in O.S.No.119 of 2023 passed by the learned I Additional District Judge, Coimbatore (hereinafter referred to as the 'impugned order') decreeing the



C.R.P.(NPD) No.4730 of 2024

suit filed by the 1st respondent, strike off the plaint in O.S.No.119 of 2023 on the file of the learned I Additional District Judge, Coimbatore and direct the 7th respondent to cancel the registration of the documents, details of which are mentioned in the Schedule herein.

For Petitioner : Mr.N.Surya Narayanan
For Mr.Rahul Balaji

For R1 to R5 : Mr.G.C.Nelson Britto
For R6 & R7 : Dr.S.Surya
Addl. Govt. Pleader

ORDER

A challenge has been made to the impugned order dated 24.03.2023 passed in O.S.No.119 of 2023 by the I Additional District Judge, Coimbatore, on the ground of fraud played on the Court and the revision petitioner. A direction was also sought to the 7th respondent to cancel the registration of the documents.

2. It is the case of the revision petitioner that a suit was filed by one Selvi, D/o.Natarajan, who is the 2nd respondent in this petition and the suit was for partition of the property and to allot 1/3rd share over the suit property. The 2nd defendant is the brother of the plaintiff. It is further case of the revision petitioner that immediately after service of summons, a



C.R.P.(NPD) No.4730 of 2024

compromise memo has been filed, based on which, decree has been passed.

The said decree has been challenged on the ground that the subject property had already been sold by the 1st defendant / 2nd respondent herein and his mother on 12.06.1971 by registered document in favour of the petitioner's father-in-law, namely, Nanjukutty Gounder and thereafter, mutation of records took place in the name of purchasers. The said property was the subject matter of the partition deed dated 16.07.1997 and a part of the subject property was allotted to the revision petitioner and suppressing all these facts, the decree had been obtained in a collusive manner by the father, son and daughter. Challenging the decree, the instant revision petition has been filed.

3. Learned counsel for the petitioner submitted that the very conduct of the parties indicates the manner in which the fraud was played to non suit the earlier registered document.

4. Learned counsel for the respondents 1 to 5 vehemently contended that the sale deed dated 12.06.1971 is disputed and the decree



C.R.P.(NPD) No.4730 of 2024

cannot be set aside. It is further contended that yet another suit in O.S.No.660 of 2024 has been filed by the legalheirs of the said Nanjukutty Gounder to cancel the decree and judgment passed in O.S.No.119 of 2023 before the District Judge, Coimbatore.

5. I have perused the material documents available on record.

6. A perusal of the sale deed dated 12.06.1971 indicates that the subject matter of the property in the partition suit was already sold to one Nanjukutty Gounder and thereafter, the very same property was the subject matter of the partition deed dated 16.07.1997, wherein a portion of the property was allotted to the revision petitioner herein. Mutation had also taken place among family members after partition. The subject property was the schedule of property in the partition suit filed by Selvi, D/o.Natarajan, who is one of the vendors. Suit in O.S.No.119 of 2023 had been filed on 03.02.2023 and the plaint was numbered on 06.02.2023. On 06.03.2023, a Vakalat was filed on behalf of the defendants and the suit stood posted on 10.03.2023. On the very same day, a joint compromise memo has been filed



C.R.P.(NPD) No.4730 of 2024

in I.A.No.3 of 2023 under Order 23 Rule 3 of CPC to record the compromise. Subsequently, on 24.03.2023, the suit was decreed in terms of the compromise and within two months, compromise decree had been passed. The conduct of the parties in recording the compromise indicates that there is an element of urgency seen. That apart, in the list of document filed along with the plaint, the sale deed of the year 1971 executed in favour of the petitioner's father-in-law does not find place.

7. This Court is of the view that there is an element of fraud in obtaining the decree in respect of the same property, which was earlier dealt with by the 1st defendant in the year 1971 itself. Unless the respondent 1 to 5 establish their rights over the property conclusively through a competent Court of Law, the compromise decree and judgment obtained by way of memorandum of compromise will not bind on the revision petitioner, who had derived title on the basis of the documents dated 12.06.1971 and 16.07.1997.



WEB COPY



C.R.P.(NPD) No.4730 of 2024

N.SATHISH KUMAR,J.,

ar

8. With the above observation, this Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

09.12.2024

Index: Yes/No
Internet: Yes/No
Speaking Order/Non Speaking Order
ar

To:

I Additional District Judge,
Coimbatore

C.R.P.(NPD) No.4730 of 2024