



C.R.P.No.3725 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.3725 of 2022
and C.M.P.No.19669 of 2022

K.Karuppiah ... Petitioner

-Vs-

1.M/s.Elanthalizhir Adaravartoor Kulanthaigal
Nala Sangam rep.by its President
Jones Jayarani.

2.S.Saravanan

3.A.Michael Arumugham

4.D.Rathinammal (died)

5.R.Umamaheswari

6.S.Kavitha

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to set aside the fair and decreetal order of the Additional Subordinate Judge at Tiruppur dated 14.09.2022 in I.A.No.72 of 2020 in O.S.No.317 of 2011.

For Petitioner : Mr.T.Dheeraj
for M/s.P.V.Law Associates

For Respondents : Mr.K.Kannadasan-for RR 4 and 5
R1 and R3 - Not ready in notice
R2 - Served, no appearance

ORDER

This Civil Revision Petition is filed at the instance of the plaintiff in O.S.No.317 of 2011, which had been filed for the relief of declaration that the



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settlement deed dated 06.11.2009 executed by defendants 5 and 6 in favour of the fourth defendant on the file of the Joint I Sub Registrar Office, Tiruppur in Document No.9439 of 2009 as null and void and not binding on the plaintiff. The consequential relief that has been sought is a declaration that the settlement deed dated 23.03.2010 executed by the fourth defendant in favour of the defendants 1 and 3 registered on the file of the Joint I Sub Registrar Office, Tiruppur in Document No.2683 of 2010 as null and void and not binding on the plaintiff.

2. The case of the plaintiff is that the fourth defendant, as the owner of the property, had mortgaged the same as collateral security to the Union Bank of India. He had also stood as guarantor for the loan. As the borrower M/s.Om Telecom and the fourth defendant did not honour the amounts due to the Union Bank of India, SARFAESI proceedings were initiated and the property was brought for auction. The plaintiff purchased the property in the auction on 14.05.2009 for Rs.29,84,000/-. Thereafter, the auction was confirmed in his favour and sale deed was also executed thereof. The sale certificate was issued on 05.10.2009 and the sale deed was executed on 22.10.2009. Subsequent to the sale, the plaintiff took possession of the property. The fourth defendant, who had lost the property, attempted to trespass into the same.

3. This constrained the plaintiff to file O.S.No.113 of 2010 against the fourth defendant. The said suit was decreed by the learned District Munsif on 04.06.2010.



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Thereafter, in order to create a cloud over the title of the property, the defendants 1 to 3 seem to have entered into a partition suit in O.S.No.617 of 2012 on the file of the learned Subordinate Judge at Tiruppur. The said proceedings had taken place pending this litigation. Knowing that their rights have been questioned by the present plaintiff, without impleading the present plaintiff as party to the suit, a compromise decree seems to have been passed on 04.12.2012. The said compromise decree was recorded before the District Registrar at Tiruvallur in Document No.819 of 2013.

4. On coming to know of the fact that a document has been registered with respect to the property of which he is the owner, the plaintiff took out an application under Order VII Rule 6 of C.P.C. The idea of the plaintiff was to bring forth to the notice of the Court certain facts which have taken place subsequent to the presentation of the plaint. The learned Additional Subordinate Judge at Tiruvallur had dismissed the application saying that it is barred by limitation, against which the present revision.

5. Heard Mr.T.Dheeraj for the petitioner and Mr.K.Kannadasan for the respondents 4 and 5.

6. At the outset, I am utterly surprised that the learned Subordinate Judge has held that events which have taken place subsequent to the filing of the plaint



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would be barred by limitation. Limitation has to be calculated on the date on which the plaint is presented. On the presentation of the plaint, the limitation qua the plaintiff stands arrested. If *inter-se* the defendants create a document, it would be a travesty of justice to hold that the claim of the plaintiff to set aside the same gets barred. All that the plaintiff seeks to do in the present case is to bring forth certain events that have taken place *inter-se* the plaintiff and the defendants since the suit is still at the pre-trial stage. Pending the litigation, it is always open for the plaintiff to bring to the notice of the Court the events which have taken place subsequently. In fact, the Court has the power to take cognizance of subsequent events, even without an amendment of the plaint, if it affects the cause of the suit.

7. In the light of the above, the order passed by the learned Additional Subordinate Judge, Tiruppur dated 14.09.2022 in I.A.No.72 of 2020 in O.S.No.317 of 2011 is set aside. The C.R.P stands allowed. The plaintiff is at liberty to amend the plaint. No costs. Consequently, connected miscellaneous petition is closed.

25.04.2024

Index : Yes/No

Neutral Citation : Yes/No

KST

To

The Additional Subordinate Judge
Tiruppur.



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V. LAKSHMINARAYANAN, J.

KST

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