



C.R.P. No.4671 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

**C.R.P. No.4671 of 2024**  
**& CMP No.26131 of 2024**

1.Malarkodi

2.Kumarasamy

3.Mohan Chakravarthi  
Petitioners

Vs

1.Chitra

2.The Sub-Registrar,  
Office at Sub-Registrar Office,  
Pethanaickenpalayam Taluk,  
Salem District.

3.The Secretary,  
Primary Agricultural Co-operative Bank,  
Yethapur Village,  
Pethanaickenpalayam Taluk,  
Salem District.

4.The District Collector,  
Salem Town and Taluk,  
Salem.

Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India



C.R.P. No.4671 of 2024

to set aside the impugned order dated 24.07.2024 passed in IA No.5 of 2022 in O.S.No.226 of 2021 on the file of the Additional District Munsif, Attur, Salem District.

For Petitioner : Mr.L.Rajendran

For Respondents : Mr.N.Muthuvel  
Government Advocate for R2 to R4

### **ORDER**

This Civil Revision Petition challenges the order of the learned Additional District and Munsif at Attur in I.A.No.5 of 2022 in O.S.No.226 of 2021, dated 24.07.2024.

2.The civil revision petitioners are the defendants 1 to 3 in the suit. The 1<sup>st</sup> respondent presented O.S.No.226 of 2021 seeking for the following reliefs:

a. to declare the Plaintiff's absolute right and title over the suit property.

b. to declare the Registered Sale Deed dated 25.02.2002 bearing Document No 313/2002 of Pethanaickenpalayam Sub-Registrar Office infavour of the 1st Defendant fraudulently relating to a portion of Suit



C.R.P. No.4671 of 2024

WEB COPY

Property is Null and Void and it will not bind the Plaintiff.

c. to declare the Registered Sale Deed dated 25.06.2003 bearing Document No 943/2003 of Pethanaickenpalayam Sub-Registrar Office in favour of the 1st Defendant fraudulently relating to a portion of Suit Property is Null and Void and it will not bind the Plaintiff.

d. to declare the Registered Gift Settlement Deed dated 05.09.2019 bearing Document No 2727/2019 of Pethanaickenpalayam Sub-registrar Office, executed by the 1st Defendant infavour of the 3rd Defendant fraudulently relating to the Suit Property is Null and Void and it will not bind the Plaintiff.

e. restraining the Defendants No 1 to 3 and their men from in any manner trespassing into the suit property by granting an order of permanent injunction.

f. restraining the Defendants No 1 to 3 and their men from in any manner encumbering or alienating the suit property in the 4th Defendant's Office by granting an order of permanent injunction.

3.The plea of the plaintiff is that she is the owner of the property which



she purchased on 12.12.1997. Thereafter she executed a mortgage deed in favour of the Yethapur Primary Agricultural Cooperative Bank. She discharged the mortgage and the bank did not return the original documents. She issued several notices to the 5<sup>th</sup> defendant to return the documents. The 5<sup>th</sup> defendant did not do so. Finally, she approached the Legal Services Authority, attached to the Court at Attur, with a petition against the 5<sup>th</sup> defendant.

4.The 5<sup>th</sup> defendant appeared before the Committee and stated that the documents were not available with the Bank. The plaintiff further pleaded that she came to know that the Defendants 1 to 3 had created records, as if the property had been transferred by the plaintiff, in favour of the 1<sup>st</sup> defendant. On the basis of this deed, the 1<sup>st</sup> defendant had executed a Gift Deed in favour of the 3<sup>rd</sup> defendant. She pleaded that she never executed any document in favour of the 1<sup>st</sup> defendant and the document on the basis of which, the 1<sup>st</sup> defendant claims title, is an instrument of impersonation and forgery. Therefore, she presented the suit for the aforesaid reliefs.

5.On being served with the summons, the defendants 1 to 3 took out an application for rejection of plaint. The primary plea is that the suit is undervalued and that the plaintiff would have to value the relief, insofar as



C.R.P. No.4671 of 2024

declaration with respect to the deeds are concerned, on the basis of value given in the deeds and not under Section 25(d) of Tamil Nadu Court Fees and Suits Valuation Act, 1965 (TNCF Act). This application was received as IA No.5 of 2022.

6.A counter was filed by the plaintiff, stating that she had valued the suit property under Section 25(d) of TNCF Act as she is not party to the document. She specifically stated that even as per the plaint, the Sale Deeds on which the 1<sup>st</sup> defendant is relying upon, are acts of forgery and impersonation. She further pleaded, the Gift Deed that has been executed by the 1<sup>st</sup> defendant in favour of the 3<sup>rd</sup> defendant will not confer any title on the 3<sup>rd</sup> defendant, since the 1<sup>st</sup> defendant himself has no title to the suit property. The learned Trial Judge came to a conclusion that the valuation under Section 25(d) is proper and dismissed the petition. Hence, this revision at the instance of defendants 1 to 3.

7.I heard Mr.Rajendran for the civil revision petitioner.

8.Mr.Rajendran, pleads that it was the plaintiff, who had executed the document in favour of his clients and therefore, the valuation should be only under Section 40 of TNCF Act. Apart from that, he draws my attention to the



C.R.P. No.4671 of 2024

affidavit filed in support of the rejection of plaint to state that the value as per the Sale Deed in the year 2003 is Rs.2 Lakhs and therefore, the learned District Munsif would not have jurisdiction. Hence, he pleads the plaint should be rejected.

9. There are two hurdles which Mr. Rajendran faces the first one being that this is an application for rejection of plaint. In such an application, the averments made in the plaint have to be taken to be true. Similarly, for the purpose of Court fee and jurisdiction also, it is the averments that are made in the plaint which alone matter. See, ***Kamaleshwar Kishore Singh vs. Paras Nath Singh, (2002) 1 SCC 304*** (Paragraph 8). I have to necessarily apply these two settled positions of law to the facts of the case.

10. It is the specific case of the plaintiff that the Sale Deeds dated 25.02.2002 and 25.06.2003 are the result of impersonation and forgery. This implies the plaintiff is not accepting that she is a party to the document. For the purpose of Section 40 of TNCF Act to be applicable, a person should have accepted that he/she has executed the said document and thereafter, should have sought for cancellation on grounds which are available to them. However, in this case, the specific case of the plaintiff is that, as the owner of the property, she



C.R.P. No.4671 of 2024

had executed a mortgage in favour of the 5<sup>th</sup> defendant Bank, and from the 5<sup>th</sup> defendant Bank, the title deeds had gone missing.

11.The plea in Paragraph No.3, makes it clear that the plaintiff had taken several steps in order to retrieve her title documents from the 5<sup>th</sup> defendant Bank. She did not succeed . It was only after the officials of the 5<sup>th</sup> defendant Bank appeared before the Legal Services Authority at Attur, she came to know that the documents had gone missing. Upon further enquiry, she found out that the defendants 1 to 3 had in fact created documents in their favour. When such is the plea, I am not in a position to come to the rescue of Mr.Rajendiran's client.

12.The law is settled. As pointed out above, the plaintiff has taken a defence of forgery. Therefore, I cannot treat her as a party to the documents. If that be the situation, then she is entitled to value the suit under Section 25(d) of the TNCF Act. Insofar as the valuation of the suit for the purpose of declaration is concerned, the Court is bound by the averments made in the plaint with respect to the Court fees. The plaintiff has specifically stated that the value for declaration of title is Rs.42,000/- and according to Section 25 of TNCF Act, she has valued at Rs.21,000/- viz., half the market value of the suit property under Section 25(d) of the TNCF Act.



C.R.P. No.4671 of 2024

WEB COPY

13. Therefore, I do not find any error in the order passed by the learned Additional District and Munsif in I.A.No.5 of 2022 in O.S.No.206 of 2021, dated 24.07.2024 and accordingly, this Civil Revision Petition is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

**22.11.2024**

Index : Yes/No

Neutral Citation : Yes/No

Neutral Citation : Yes/No

Speaking/Non-Speaking Order

ssr

To

1. The Additional District Munsif, Attur, Salem District.

2. The Sub-Registrar,  
Office at Sub-Registrar Office,  
Pethanaickenpalayam Taluk,  
Salem District.

3. The Secretary,  
Primary Agricultural Co-operative Bank,  
Yethapur Village,  
Pethanaickenpalayam Taluk,  
Salem District.



WEB COPY



C.R.P. No.4671 of 2024



C.R.P. No.4671 of 2024

4.The District Collector,  
Salem Town and Taluk,  
Salem.

WEB COPY



WEB COPY



C.R.P. No.4671 of 2024

**V. LAKSHMINARAYANAN, J.**

SSR

**C.R.P. No.4671 of 2024**  
**& CMP No.26131 of 2024**

**22.11.2024**