



WEB COPY



C.R.P.(PD)Nos.3728, 3730 & 3732 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **20.11.2024**

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)Nos.3728, 3730 & 3732 of 2019
and
C.M.P.No.24497 of 2019

1. B.Manivannan

2. B.Dasarathan

... Petitioners in
all C.R.P.'s

Vs

1. E.Ramanathinam

2. S.Sornam

3. M.S.Vijayakumar

4. S.Balakrishnan

5. S.Rajasivaraman

6. M.S.Meenakshi

7.R.Pandimadevi

8.S.Visalakshi

9.D.Manimegalai

(Notice to the 3rd Respondent
is dispensed with vide order
dated 20.11.2024)

.. Respondents in
all C.R.P.'s

PRAYER in all CRP's: Civil Revision Petitions filed under Article 227

of the Constitution of India, to set aside the Fair and Decretal order
passed in I.A.Nos.5000 of 2018, 5446 of 2018 and 5001 of 2018 in



C.R.P.(PD)Nos.3728, 3730 & 3732 of 2019

O.S.No.2852 of 2010 dated 14.03.2019 on the file of VI Asst. City Civil Court, Chennai.

For Petitioners : Mr.T.D.K.Govindarajan

COMMON ORDER

Heard Mr.T.D.K.Govindarajan for the civil revision petitioner. Though the respondents were served in person as well as through the counsel Mr.K.Mohan, who appeared before the Trial Court, none appear on their behalf. Hence, I heard Mr.T.D.K.Govindaran and proceeded to enter upon the judgment in the revisions.

2. These three revisions arise against the orders of the learned VI Assistant City Civil Court, Chennai in I.A.No.5000/2018, I.A.No. 5001/2018 and I.A.No. 5446/2018 dated 14.03.2019.

3. The civil revision petitioners are the plaintiffs in the suit. He has presented the suit in O.S.No.2852 of 2010, seeking for declaration for the following reliefs:

"(a) by an order of declaration declaring that the document No.1502 of 1990 dated 31.10.1990 is



WEB COPY



C.R.P.(PD)Nos.3728, 3730 & 3732 of 2019

null and void and is not binding the plaintiffs.

(b) by an order of declaration declaring that the document no.100 of 1994 dated 27.11.1994 is null and void and is not binding the plaintiffs.

(c)by order of order permanent injunction restraining the defendants or their men, agents servants from interfering with the possession and enjoyment of the plaintiffs over the property.

(d) restraining the defendants or their men, agents servants from alienating the suit property being vacant land bearing Survey No.1/1. Registration District, south Madras Registration District, Mambalam-Guindy Taluk at Raja Street, Velachery, Madras- 600 042, more fully described in the schedule hereunder.

(d) directing the defendants to pay the cost of the suit to the plaintiffs and

(e) pass such further or other orders as the Honourable Court may deem fit and proper in the circumstances of the case and thus render justice."

4. The case of the plaintiffs is that the property was purchased by their grandfather, one Murugan. The said Murugan passed away leaving behind him one son, Balaraman and two daughters Kiliammal and Jaya. The said Balaraman, Kiliammal, and Jaya had alienated the property after the death of Murugan in favour of the 1st defendant on 31.10.1990. Thereafter, the 1st defendant had sold the property to the 2nd defendant on 27.11.1994. The plaintiffs pleaded as they are the grand sons of the said Murugan, they should have been made a party to the sale deed dated



C.R.P.(PD)Nos.3728, 3730 & 3732 of 2019

31.10.1990. They added that Balaraman, Kiliammal and Jaya could not have alienated the property. On these pleadings they presented the suit for the aforesaid reliefs.

5.The defendants entered appearance and filed detailed written statements. Thereafter, issues were framed and parties were pushed to Trial. The plaintiffs have completed their evidence and defendants have entered the witness box. During the course of cross examination, the learned counsel for the Plaintiff put a question whether the alleged construction said to have been put up by the defendants over the suit schedule mentioned property was with the approval of the Town Planning Authorities. The 5th defendant had pleaded that he had put up a construction after obtaining approval. He did not produce the approved plan. Therefore, the plaintiff took out applications to reopen his evidence and to summon the corporation officials by issuing a subpoena. These applications in I.A.Nos.14476 and 14477 of 2017 came to be dismissed by the learned Trial Judge on 08.01.2018.

6. Aggrieved by the same, the plaintiffs preferred revisions before this Court in C.R.P.Nos. 802 and 803 of 2018. The revisions also came



C.R.P.(PD)Nos.3728, 3730 & 3732 of 2019

to be dismissed on 09.03.2018.

WEB COPY

7. Thereafter, the plaintiffs filed an application under the Right to Information Act and obtained a reply that the construction put over the suit schedule mentioned property does not have the approval of the Corporation authorities. Therefore, the plaintiff wanted to introduce the reply as evidence before the Court. Consequently, they filed I.A.Nos.5000, 5001 and 5446 of 2018 to reopen the plaintiff's evidence and to recall P.W.1. They were accompanied with an application under Order VII Rule 14 (iii) of the Code of Civil Procedure to file additional documents. After receipt of the counter from the contesting defendants, the learned Judge dismissed the applications. Hence, these revisions.

8. I have gone through the records and considered the submissions.

9. A perusal of the plaint reveals that the case of the plaintiff is that the property is a vacant land. It is the defendants, who have pleaded, that they have put up a construction and the property is assessed to corporation tax. Therefore, the burden of proof lies with the defendants to prove that there is an approved building in and over the suit property.

The plaintiffs need not disprove this plea. Apart from that, the issue



C.R.P.(PD)Nos.3728, 3730 & 3732 of 2019

before the Court is whether the sale deed executed by the father and two paternal aunts of the plaintiffs in favour of the 1st defendant is true and valid. In such a proceeding, the question of going into the issue whether there existed the superstructure and if the superstructure is approved or not is entirely alien.

10. It is settled position of law that no amount of evidence can be looked into, unless and until, there is a plea to that effect. I went through the plaint. It is the specific case of the plaintiffs that the property is a vacant site and if that be the position, since, there is no pleading by the plaintiffs that the construction is an unauthorised one. Hence, there is no necessity for the Trial Court to go into the said issue. Furthermore, the evidence of both sides have been completed. It is at that stage, the plaintiffs come up with applications to reopen, recall and let in documents. The suit is at an advanced stage. By receipt of the two documents which Mr.Govindarajan's clients want to introduce, it is not going to help them. It is also not going to help the Court to render judgment in the suit. Therefore, I do not find any reasons to interfere with the order of the Trial Court .



C.R.P.(PD)Nos.3728, 3730 & 3732 of 2019

11. Accordingly, the Civil Revision Petitions are dismissed. The

learned Trial Judge is requested to enter upon the judgment in the suit,

within **three months** from the date of receipt of a copy of this order.

No costs. Consequently, connected Miscellaneous Petition is closed.

20.11.2024

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

arr

To

The VI Assistant City Civil Court,
Chennai.



WEB COPY



C.R.P.(PD)Nos.3728, 3730 & 3732 of 2019

LAKSHMINARAYANAN,J.

arr

C.R.P.(PD)Nos.3728, 3730 & 3732 of 2019

20.11.2024