



C.R.P.No.4552 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.4552 of 2024
and C.M.P.No.25351 of 2024

1.P.Sellamuthu
2.Rani

.. Petitioners

Versus

1.S.Shanmugavel
2.L.Maheshkumar
3.S.Maliga
4.A.Loganathan
5.S.Sivalingam

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed in CMA No.5/2023 on the file of IV Additional Subordinate Judge, Coimbatore reversing the order passed in IA No.2/2022 in OS No.1123/2022 on the file of Learned Principal District Munsif, Coimbatore.

For Petitioner : Ms.Haritha

For Respondents : Mr.C.R.Prasanan

ORDER



C.R.P.No.4552 of 2024

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This civil revision petition arises against the order passed by the learned IV Additional Subordinate Court at Coimbatore in CMA.No.5 of 2023 dated 11.01.2024 in reversing the order and decretal order of the learned Principal District Munsif at Coimbatore in I.A.No.2 of 2022 in O.S.No.1123 of 2022 dated 21.11.2022 and thereby dismissing the application for injunction.

2. O.S.No.1123 of 2022 is a suit for permanent injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the suit property, which is alleged to be in possession of the plaintiffs. Though it is a suit for have injunction, based on alleged lawful possession of the plaintiffs. They have also pleaded title to the property.

3. It is the case of the plaintiffs that on 14.09.1923, one Karuppa Gounder @ Karupanna Gounder purchased the property. He passed away on 06.07.1975 leaving behind his only son Periyasamy Gounder to succeed to his estate. Periyasamy Gounder died intestate on 07.03.1989 leaving behind one son and two daughters namely Santhalingam, Bhakiyam and Rathinam. On the death of Periyasamy Gounder, the two daughters executed a



C.R.P.No.4552 of 2024

WEB COPY

relinquishment deed in favour of Santhalingam. Since Santhalingam became the owner of the property, he executed a sale deed in favour of the plaintiffs on 20.03.2012. On 06.01.2014, finding that there has been some error in the deed, a power of attorney of the said Santhalingam, namely, one Ramalingam executed a rectification deed. This document was registered on 06.06.2014. On account of the interference in possession and denial of title, the plaintiffs presented O.S.No.358 of 2014 on the file of the learned V Additional District Judge at Coimbatore. He pleaded that despite the suit, the defendants were attempting to dispossess them from the property and hence, the aforesaid suit for injunction.

4. On being served with summons, the defendants filed a detailed written statement. According to them, Karuppa Gounder did not die on 06.07.1975. They pleaded that on 20.11.1944, Periyasamy Gounder, son of Karuppa Gounder had executed a sale deed in favour of one Sankara Gounder and thereafter, Sankara Gounder executed a sale deed in favour of Nanjappa Gounder and another sale deed in favour of Marappa Gounder on 22.02.1950 and 27.05.1960 respectively. According to the sale deed dated 20.11.1944, the vendor Periyasamy Gounder had mentioned that Karuppa



C.R.P.No.4552 of 2024

WEB COPY

Gounder was already dead and gone. They also pleaded that a suit had been filed by Santhalingam, claiming title in O.S.No.122 of 2011. They further pleaded that the defendants in the present suit had filed a suit in O.S.No.415 of 2014 for declaration that the sale deed dated 23.12.2012 allegedly executed by Santhalingam in favour of the plaintiffs is null and void and not binding on them. They had also sought for a permanent injunction restraining the defendants from alienating or encumbering the property in any manner in that suit.

5. The defendants also accepted that the plaintiffs had filed a suit in O.S.No.358 of 2014 for a declaration that they are the absolute owners of the property. Being a suit and cross suit, the suit in O.S.No.415 of 2014, which was originally presented before the III Additional Subordinate Judge stood transferred to the file of the learned V Additional District Judge and was renumbered as O.S.No.117 of 2018. They produced records to show that the fourth defendant on purchase of the property had developed a lay out and had also executed a gift deed in favour of the local authority for the public convenience.



C.R.P.No.4552 of 2024

WEB COPY

6. The defendants further pleaded that Santhalingam had not produced any title deed in O.S.No.122 of 2011 and that, since the suits are already pending before the learned District Judge, the learned District Munsif ought not to entertain the suit.

7. Pending disposal of the present suit, an application was presented for interim injunction restraining the respondents herein from interfering with the peaceful possession and enjoyment of the property. This application was received in I.A.No.2 of 2022.

8. The defendants filed a counter more or less on the same lines as presented by them in the written statement.

9. The plaintiffs marked Ex.P1 to Ex.P28 and the defendants marked Ex.R1 to Ex.R85. Neither the parties entered the witnesses box in order to give their oral evidence.

10. The learned Trial Judge, on consideration of the facts pleaded, decided that there was a prima facie case in favour of the plaintiffs and



C.R.P.No.4552 of 2024

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granted an injunction. Aggrieved by the said order, a civil miscellaneous appeal was preferred before the IV Additional Subordinate Judge, Coimbatore in CMA.No.5 of 2023 by the defendants 1 to 4.

11. After hearing both sides, the learned Judge came to a conclusion that since serious disputes on title, boundaries as well as possession are involved, no prima facie case had been demonstrated by the plaintiffs and hence, allowed the appeal and dismissed the injunction application. Hence, this revision.

12. I heard Ms.Haritha for the civil revision petitioners and Mr.C.R.Prasanan for the respondents.

13. The narration of the facts goes to show that the very sale deed, under which the civil revision petitioners claim title to the property, has been attacked by the respondents by presenting a suit for declaration. The said suit is pending from the year 2014. It is also on record that the vendor of the civil revision petitioners had presented a suit for declaration of his title and had left it go for default. Not wanting to be left out of the litigation



C.R.P.No.4552 of 2024

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game, the plaintiffs have also filed a suit for declaration and injunction and that too is pending before the learned V Additional District Judge, Coimbatore. When such is the consideration, the issue of making out a prima facie case and that too, eight years after the presentation of the suit, challenging their title cannot arise at all.

14. Where serious disputes are involved over the title and possession, unless and until a strong case is projected by the plaintiffs, they should normally not be benefitted with an order of injunction as done by the learned Trial Judge. I should not forget that I am sitting in the revision under Article 227 of the Constitution of India and it is not open to me to reappreciate the evidence that has been dealt with by the final court of facts, the lower appellate court. Though the judgment of the learned IV Additional Subordinate Court leaves much to desire, since she has analysed the position of law, I am not inclined to interfere with the order.

15. In the light of the above discussion, this civil revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The order of the learned IV Additional Subordinate Judge at



C.R.P.No.4552 of 2024

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Coimbatore in CMA.No.5 of 2023 dated 11.01.2024 in reversing the order and decretal order of the learned Principal District Munsif at Coimbatore in I.A.No.2 of 2022 in O.S.No.1123 of 2022 dated 21.11.2022 stands confirmed.

15. As stated above, both sides have launched one litigation after another against each other. They have also troubled this court with a couple of writ petitions. It is in the interest of parties that the litigation comes to an end at an early date. Therefore, the suit in O.S.No.1123 of 2022 pending on the file of the learned Principal District Munsif, Coimbatore is withdrawn and transferred to the file of the learned V Additional District Judge at Coimbatore. The learned Judge shall try the present suit, on renumbering it along with O.S.No.117 of 2018 and O.S.No.358 of 2014. Both sides state that the previously instituted suits are still at the stage of framing of issues and the trial “not in the list” respectively. Since the pleadings are complete in this suit, it is better that the learned V Additional District Judge renders a judgment in all the three suits by way of a common judgment.

21.11.2024



C.R.P.No.4552 of 2024

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Index : yes/no

Speaking order/Non-speaking order

Neutral Citation : yes/no

To

- 1.The IV Additional Subordinate Judge, Coimbatore
- 2.The Principal District Munsif, Coimbatore.
- 3.The V Additional District Judge, Coimbatore



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C.R.P.No.4552 of 2024

V.LAKSHMINARAYANAN, J.

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C.R.P.No.4552 of 2024

21.11.2024