



WEB COPY



C.R.P.(PD)Nos.4749 to 4752 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **28.11.2024**

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)Nos.4749 to 4752 of 2024
and C.M.P.No.26550 of 2024

In all four CRPs.

1. T.Ponnambalam
2. Suriyakala

.. Petitioners

Vs

1. Saroja
2. A.Mathew
3. The Sub-Registrar,
Sub-Registrar Office,
Tambaram East, Chennai-600 059.

4. District Collector,
Kanchipuram District,
Office of the District Collector,
Kanchipuram-631 501.

.. Respondents

COMMON PRAYER: Civil Revision Petitions are filed under Article
227 of the Constitution of India, against the order dated 05.09.2024 made



C.R.P.(PD)Nos.4749 to 4752 of 2024

in I.A.Nos.6, 5, 7 & 8 of 2024 in O.S.No.380 of 2009 on the file of the

WEB CO District Munsif Court at Chengalpet.

For Petitioners : Ms.Vasudha Thiagarajan

For RR3 & 4 : Mr.N.Muthuvel, Govt. Advocate

COMMON ORDER

These four civil revision petitions are at the instance of the defendants 1 & 2 in O.S.No.380 of 2009 on the file of the learned District Munsif at Chengalpet.

2. The respondents 1 & 2 are the plaintiffs. O.S.No.380 of 2009 is a suit for declaration that the power of attorney executed by one Muniammal in favour of the 1st defendant is null and void and for a declaration that the sale deed executed by the 1st defendant in favour of his wife, the 2nd defendant is equally null and void.

3. The case of the plaintiffs is that they had purchased the property in the year 2005. It is to an extent of 43 cents. When the 2nd plaintiff attempted to develop the property on his retirement from TANGEDCO, it was opposed by the defendants 1 & 2. The defendants 1 & 2 pleaded that



they had purchased the property in the year 2006, that is a year after the purchase made by the plaintiffs. They claimed they are entitled to the said property. Since they projected a claim as against the plaintiffs' title, the plaintiffs came forth with the suit.

4. The defendants 1 & 2 pleaded that the property originally belonged to one Adhikesavan, who had alienated the property in favour of Muniammal. Muniammal had, thereafter, executed a power of attorney in favour of the 1st defendant and the 1st defendant had executed the sale deed in favour of the 2nd defendant. According to them, Adhikesavan is entitled to the property ancestrally and he had every right to alienate the same.

5. On these pleadings, issues were framed. The parties went for trial. Evidence has been concluded and the matter was listed for arguments. The defendants also said to have made their submissions to the Trial Court.

6. In the meantime, one Jayakamaraj claimed that he had purchased the suit property from the plaintiffs. Therefore, he filed an



C.R.P.(PD)Nos.4749 to 4752 of 2024

application in I.A.No.1 of 2022 seeking to implead himself as a party to the proceedings. Consequently, the learned Trial Judge did not pronounce the judgment in the suit, but took up the impleading application. After considering the plea of the plaintiffs, defendants and the proposed party, the learned Trial Judge proceeded to dismiss I.A.No.1 of 2022 on 01.12.2023. Thereafter, the matter was adjourned for hearing arguments of the respective parties.

7. At that stage, the plaintiffs filed four applications in I.A.Nos.5 to 8 of 2024. The applications sought re-opening the evidence, to recall the witness and to bring forth certain documents, which had come to the hands of the plaintiffs subsequent to the filing of the suit. This application was resisted by the defendants stating that the only intention of the plaintiffs is to keep the pot boiling and to ensure that the suit does not see its logical end. They further pleaded that a change in counsel does not give a new cause of action for filing an application for fresh documents. After hearing the petitioners and the respondents, the learned District Munsif allowed the applications on payment of costs.



C.R.P.(PD)Nos.4749 to 4752 of 2024

8. Aggrieved by the said order, the defendants 1 & 2 are on revisions before me.

9. I heard Ms.Vasudha Thiagarajan for the civil revision petitioners and Mr.N.Muthuvel for respondents 3 & 4.

10. Ms.Vasudha Thiagarajan took me to the entire history of the suit. She points out that though the suit had been initiated in 2009 and for one reason or the other, the suit has been kept pending for the past 15 years. She states that being left with no other option, the 2nd defendant had alienated the property in favour of the 1st defendant and this document being one hit by *lis pendens*. It would make no difference in case, the suit is decreed.

11. Learned Government Advocate submits that the State respondents will abide by any decree that is granted by the Civil Court.

12. I have carefully considered the submissions of both sides. I have perused the entire records.



WEB COPY

13. The narration of the facts set forth above points out that the issue before the Court is whether the vendor of the plaintiffs has title to the property or whether the vendor of the defendants has title to the property. Both of them agree that the properties were dealt with ancestrally by their predecessors in title.

14. The plaintiffs claimed that at the time of partition, the property that fell to the share of one Vairavamurthy, the father of Adhikesavan, (the vendor of the predecessors in title of the defendants 1 & 2 vendor namely, Muniammal). According to them, his entitlement is only to an extent of 15 cents. According to plaintiffs, if the father himself had only 15 cents, his son cannot have any right over an inch about the said 15 cents. In order to demonstrate the same, they want to file the additional documents in the suit.

15. In addition, they also want to point out that pending the suit, the 2nd defendant had alienated the property in favour of the 1st defendant. Ms.Vasudha Thiagarajan is correct that this document would be hit by *lis pendens*. Yet it is better, for the documents to be brought on



C.R.P.(PD)Nos.4749 to 4752 of 2024

record, so as to enable the Court to pronounce a comprehensive judgment relating to all the documents that will be filed by the plaintiffs.

16. The documents sought to be introduced by the plaintiffs, which has been permitted by the Trial Court, are all the documents, in which the plaintiffs are not parties. Document Nos.1 & 2 are certified copies of registered documents. Therefore, the defendants 1 & 2 would not be put to prejudice. In so far as document Nos.3 to 8 are concerned, those are the documents of the defendants themselves. Even on that score, I do not think the defendants 1 & 2 would be prejudiced.

17. At this stage, Ms.Vasudha Thiagarajan points out that taking advantage of allowing the application Nos.5 to 8 of 2024, the plaintiffs will attempt to re-agitate the issue on which already they have placed their evidence. This point deserves consideration. I feel that the fear is unfounded. This is because, I am sure that the learned District Munsif would not permit the plaintiffs to withdraw any admissions as the evidence has already been deposed by them in the suit. Obviously, by allowing the applications, the learned District Munsif wants the documents, which have been omitted by the plaintiffs, to be brought on



C.R.P.(PD)Nos.4749 to 4752 of 2024

record. If that be the situation, then I am certain that the District Munsif will not permit the plaintiffs or the defendants to speak about any other aspects, other than the documents, which have been presented along with I.A.Nos.5 to 8 of 2024.

18. In any event, the learned Trial Judge has exercised her discretion in allowing the applications. Unless and until the discretion has been exercised in an arbitrary or capricious manner, a mere procedural order is normally not revised by the Court in exercise of its jurisdiction under Article 227 of the Constitution of India.

19. Finally, before I bring the curtains down on the revisions, I have to point out that the suit having been pending from the year 2009, it is in the interest of both sides that they see the end of the litigation at least before the Trial Court.

20. All the four civil revision petitions are dismissed with the following directions:

(i). There shall be a direction to the learned District Munsif at Chengalpet to record the evidence of P.W.2, D.W.2 and pronounce final



C.R.P.(PD)Nos.4749 to 4752 of 2024

orders in the suit in O.S.No.380 of 2009 on or before 24.01.2025.

WEB COPY (ii). The learned District Munsif shall report compliance of the disposal of the suit to this Court on 30.01.2025.

(iii) At the time of sending a report to this Court, a copy of the judgment in the suit shall be enclosed.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

28.11.2024

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

kj

To

1. The District Munsif at Chengalpet.

2. The Sub-Registrar,
Sub-Registrar Office,
Tambaram East, Chennai-600 059.

3. District Collector,
Kanchipuram District,
Office of the District Collector,
Kanchipuram-631 501.



WEB COPY



C.R.P.(PD)Nos.4749 to 4752 of 2024

V. LAKSHMINARAYANAN,J.

Kj

C.R.P.(PD)Nos.4749 to 4752 of 2024
and C.M.P.No.26550 of 2024

28.11.2024