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C.R.P.(PD)No.4487 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **12.11.2024**

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.4487 of 2024

and

C.M.P.No.25029 of 2024

Angathal (dead)

K.Raj

.. Petitioner

..Vs..

Mani

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the Fair and Decretal order dated 20.09.2024 passed in I.A.No.10 of 2024 in O.S.No.102 of 2017 on the file of learned Sub Court, Kangeyam, Tiruppur District.

For Petitioner : Mr.S.Sri Ram

ORDER

This civil revision petition challenges the order of the learned Sub Judge, Karur in I.A.No.10 of 2024 in O.S.No.102 of 2017 dated



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20.09.2024.

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2. The civil revision petitioner is the 2nd defendant in the suit. O.S.No.102 of 2017 was presented by the sole respondent herein pleading that there was family agreement dated 25.04.2010 between him and the 1st defendant, his mother. On and from the date of the agreement, they have been individually enjoying the property which have been allotted to them. Pursuant to the said family agreement, the plaintiff confined the suit claim to three particular survey numbers viz., S.No.646/B, 736C and 728B in Vellakoil Village, Kangeyam Taluk.

3. The 2nd defendant was impleaded as a party, pursuant to the orders passed by the learned Subordinate Judge, in I.A.No.776 of 2015. He entered appearance and also filed a detailed written statement. He claims that the plaintiff's mother viz., the 1st defendant alienated the property, in his favour, for valid sale consideration, by way of a registered Document bearing No. 2559 of 2015 on 17.07.2015. A reply statement was filed by the plaintiff pleading that, after the Family agreement, his mother does not have the right to alienate the property allotted to him. In any event, the Sale Deed on the basis of which the 2nd defendant had purchased the property is vitiated, as it was procured by



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playing a guile on his mother.

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4. On the basis of these pleadings, trial was conducted, evidence was recorded and after concluding the arguments, the matter was listed for Judgment.

5. At that stage, the Plaintiff took out an application in I.A.No.10 of 2024 seeking to amend the plaint. By way of amendment, he wanted to introduce a prayer for declaration, that the Sale Deed executed by the 1st defendant in favour of the 2nd defendant referred to above is *void ab initio*. The learned Judge numbered this application as I.A.No.10 of 2024, received the counter from the 2nd defendant and allowed the application. Hence, this revision.

6. I heard Mr.S.Sriram. learned counsel for the Petitioner and perused the entire records.

7. Mr.S.Sriram points out that the plaintiff is not entitled to amend the plaint at the fag end of the proceedings. He further urged that if the prayer sought for is granted, it will set aside the entire sale, including the properties which had been alienated. Therefore, he seeks the order to be



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modified.

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8. The plaintiff has come forward with the suit for declaration that he is exclusively entitled to the suit schedule properties. He concedes in the plaint that certain properties were allotted to his mother, pursuant to the family agreement dated 25.04.2010. Therefore, according to Mr.Sri Ram, if the prayer sought for, in the interlocutory application is granted, it will set aside the entire sale. This in my opinion is unfounded. The prayer cannot exceed the schedule annexed to the Plaint. The suit property is confined to three Survey Numbers aforementioned. Even assuming if the suit is decreed, obviously, the Court cannot set aside the sale beyond the relief that has been sought for by the plaintiff.

9. The plaintiff has not projected a new case. By allowing the interlocutory application seeking amendment, the cause of action will not change. The suit continues to be one for declaration of title. In case, the Court is convinced with the Plaintiff's case about the family agreement and were to grant relief No.1, automatically, it means that the 1st defendant did not have right over the said properties allotted to the plaintiff. Therefore, Sale Deed dated 17.06.2024 executed by plaintiff's mother in favour of the second defendant could not have conveyed the



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properties that were allotted to the Plaintiff. To put it in other words, the prayer sought for in the interlocutory application is only consequential to the main relief sought for in the suit, viz., declaration of title. The plaintiff has not brought forth a new case. Hence, I find no error in the order allowing the amendments.

With the above observations, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

12.11.2024

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

arr

To

The District Munsif-cum-Judicial Magistrate at Tiruvarur.



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V.LAKSHMINARAYANAN, J

arr

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