



C.R.P.No.2192 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.2192 of 2023

1.V.Bangarammal (Died)

2.V.Venkatesan

3.V.Thayar (Died)

4.V.Adhikesavalu (Died)

5.V.Jothi

6.V.Doss

(Petitioner 1 died. Petitioners 2 to 6 recorded as LRs of the deceased P-1 vide court order dated 24.06.2024 made in CMP Nos.29249, 29242 and 29243 of 2023 by VLNJ)

7.S.Balaji

(Petitioner 3 died. Petitioner-7 brought on record as LRs of the deceased P-3 V.Thayar vide court order dated 24.06.2024 by VLNJ)

8.A.Leelavathi

9.U.Pavithra

10.A.Hemnath

(Petitioner 4 died. Petitioners 8 to 10 are brought on record as LRs of the deceased P4 viz., V.Adhikesavalu vide court order dated 24.06.2024 made in CMP Nos.12650, 12659 and 12660 of 2024 by VLNJ)

... Petitioners

-Vs-

Narayanasamy (Died)

1.N.Vijayakumar

2.N.Dharmaraj

3.Kuppammal

4.Revathi

5.Sasikala



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6.Ramani

(Respondents 2 to 7 impleaded as legal heirs of deceased respondent Narayanasamy as per order in I.A.No.248 of 2018 dated 16.07.2018)

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to set aside the fair and decreetal order passed in I.A.No.211 of 2017 in O.S.No.300 of 2013 dated 16.06.2022 on the file of the District Munsif, Chengalpattu.

For Petitioners : Mr.V.Vijayshankar

For Respondents : Mr.N.Sivaprakash

ORDER

This Civil Revision Petition is directed against the order of the learned District Munsif, Chengalpattu in I.A.No.211 of 2017 in O.S.No.300 of 2013 dated 16.06.2022.

For the sake of convenience, the parties will be referred to as per the ranking in the suit.

2. O.S.No.300 of 2013 is a suit for declaration of the plaintiff's right over item No.2 of the suit schedule mentioned property and to declare that the settlement deed executed by Bangarammal in favour of the civil revision petitioners 2 to 6 on 01.04.2010 as null and void.



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3. On service of summons, the defendants entered appearance through counsel and filed a detailed written statement. They would claim that they are the owners of the property and would also state that they have already initiated a suit for declaration of their title and for recovery of possession and to declare that the settlement deed executed by the father of the first defendant on 23.02.1980 in favour of the plaintiffs as null and void. Mr.V.Vijayshankar would submit that the suit had been numbered as O.S.No.430 of 2009 and it is pending on the file of the District Munsif at Chengalpattu,

4. In the present suit, exparte decree was passed on 15.11.2016. Two applications were filed to condone the delay and to set aside the exparte decree in O.S.No.300 of 2013. Unfortunately, the application to condone the delay in I.A.No.211 of 2017 came to be dismissed for default on 15.07.2019. To restore I.A.No.211 of 2017 and to condone the delay in filing the application to restore the I.A. two applications were filed in I.A.No.1031 of 2019 and I.A.No.1 of 2021.

5. I.A.No.1031 of 2019 to condone the delay of 22 days in filing the application to restore I.A.No.211 of 2017 came to be allowed by the learned District Munsif on 20.03.2020. The application to restore was subsequently numbered as I.A.No.1 of 2021 and was allowed on 05.03.2021. On the basis of the applications being allowed, I.A.No.211 of 2017 stood restored on to the file of the Court. This application came to be dismissed by the learned District Munsif stating that, no



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satisfactory explanation has been given by the petitioner to condone the delay.

This is on the basis of the counter that had been filed by the respondents before him in the said application. Aggrieved by the order of dismissal, the present revision has been filed before this Court.

6. I heard Mr.V.Vijayshankar for the petitioner and Mr.N.Sivaprakash for the respondents.

7. The narration of the aforesaid facts will show that the parties have been litigating from 2009 with respect to the suit schedule mentioned property. There are suits and counter suits seeking for declaration of title and for consequential reliefs of either recovery of possession or for injunction respectively. The reason given in the application to condone the delay is that the deponent therein was taking care of his mother viz., the first defendant V.Bangarammal as she was aged. As circumstance is clear from this revision, Bangarammal has also gone to meet her maker. During the pendency of the suit, the third defendant has also passed away and so also the fourth defendant. A person pleading that he was taking care of his mother cannot produce records before the Court in order to convince the Court on this point. There are certain pleas for which no evidence can be let in. The very fact that in the plaint Bangarammal has been shown to be aged about 82 years shows that she would require attention. The defendants 3 to 6 are none else than her children who are also beneficiaries of the settlement deed. I do not find the



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delay to be enormous. The learned District Munsif could have exercised her discretion in favour of the defendants upon taking into consideration that vital rights to immovable properties are subject matter of the suit.

8. In the light of the above discussion, I feel sufficient cause has been made out and despite the vehement objections of Mr.N.Sivaprakash, I am inclined to condone the delay. The Civil Revision Petition is allowed. No costs. The order passed by the learned District Munsif, Chengalpattu in I.A.No.211 of 2017 in O.S.No.300 of 2013 dated 16.06.2022 is set aside.

9. The learned District Munsif is requested to take only the application to set aside the exparte decree and allow the same. In case O.S.No.430 of 2009 which is said to have been dismissed for default is restored, learned District Munsif shall try O.S.No.300 of 2013 along with O.S.No.430 of 2009. Both the suits being more than a decade old, the learned District Munsif is requested to give appropriate attention as the suits deserve and dispose of the same as expeditiously as possible. In fine, the civil revision petition is allowed. No costs.

24.06.2024

Index : Yes/No
Neutral Citation : Yes/No
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V. LAKSHMINARAYANAN, J.
KST

To

The District Munsif
Chengalpattu.

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24.06.2024