



C.R.P.No.4732 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.4732 of 2024

1.Nagaraj Reddy
2.Manjula

.. Petitioners

Versus

1.Nanjamma
2.Lakshamma
3.Obamma
4.The District Collector,
Office of Collectorate
Krishnagiri
5.The District Registrar,
Krishnagiri Registration District,
Krishnagiri.
6.The Sub Registrar,
Denkanikottai SRO,
Denkanikottai

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to direct the Subordinate Judge, Denkanikottai to take on file and number the plaint in O.S.SR3680 of 2024 returned on 29.10.2024.

For Petitioners : Mr.R.Radha Pandian



WEB COPY



C.R.P.No.4732 of 2024

ORDER

The civil revision petition is at the instance of the plaintiffs in O.S.SR3680 of 2024 on the file of the learned Subordinate Judge at Denkanikottai. The civil revision petitioner presented a suit seeking for the following reliefs:

“a. to declare the title, right and possession of the plaintiffs over the suit schedule property,

b. to declare the forged Sale Deed No.433/1970 of SRO, Denkanikottai dated 20.03.1970 as Null and Void,

c. to declare the Nominal Gift Settlement Deed No.3324/2024 of SRO Denkanikottai dated 26.03.2024 as Null and Void,

d. to declare the Nominal Gift Settlement Deed No.3325/2024 of SRO Denkanikottai dated 26.03.2024 as Null and Void,

e. to grant permanent injunction for restraining the defendants from making any further encumbrance over the suit schedule properties.”

2. The case of the plaintiffs is that the suit schedule mentioned property was allotted to the plaintiffs' father one Narasimma Reddy under



C.R.P.No.4732 of 2024

WEB COPY

oral partition that took place between him and his brothers, namely, Narasimma Reddy, Bodi Reddy and Rama Reddy. They pleaded that their father had been in possession and enjoyment of the property untill he passed away on 19.05.2019. They added their brother, Narasimma Murthy, had passed away without leaving any legal heirs. Therefore, the plaintiffs became the absolute owners of the property, which had been allotted to their father under the oral partition.

3. The plaintiffs stated that in August 2024, when the first plaintiff went to his village, he found that the defendants 1 and 2 were cultivating the property, which belonged to them. When he questioned them, he was surprised to find out that they were making an illegal claim over the property. Therefore, he applied for encumbrance certificate and it was then, he got to know that the first defendant had **forged** a sale deed, said to have been executed by his father, in her favour. Subsequently, the first defendant had created a document in favour of the defendants 2 and 3, who are none else than her daughters. Hence, the suit.



C.R.P.No.4732 of 2024

WEB COPY

4. The learned Trial Judge returned the plaint, questioning as to how the suit is maintainable on the point of limitation. The learned counsel for the plaintiffs re-presented the suit, stating that the document, on the basis of which the first defendant seeks to claim title, is an act of forgery and therefore, the suit is in time.

5. Again the learned Subordinate Judge returned the plaint on the same ground. The learned counsel for the plaintiffs re-presented the plaint stating that, as per Article 58 of the Limitation Act, a suit for declaration of title to an immovable property should be filed within 12 years and hence, the suit is in time.

6. Yet again the learned Subordinate Judge returned the papers saying that the revenue documents should be presented to show that the plaintiff's father was in possession of the property till his death.

7. Aggrieved by the repeated returns, the civil revision petitioners are before this Court.



C.R.P.No.4732 of 2024

WEB COPY

8. I have heard Mr.R.Radha Pandian for the civil revision petitioners.

9. Mr.R.Radha Pandian argues that it is the specific case of the plaintiffs that the document, on the basis of which the first defendant claims title and on the strength of which she transferred the property to the defendants 2 and 3, is an act of forgery. The plaintiffs came to know about the said document only when the first plaintiff applied for encumbrance certificate and obtained the same in 2024. He argues that the revenue records, including patta, stood in the name of their father untill his death. Therefore, he pleads that the repeated returns by the learned Subordinate Judge requires interference in the hands of this Court.

10. I have carefully considered the arguments of Mr.R.Radha Pandian.

11. I have to recollect the judgment of Hon'ble Mr.Justice N.Seshasayee in ***Selvaraj v. Koodankulam Nuclear Power Plant India Limited, (2021) 5 MLJ 467***, whereunder the learned Judge held that at the time of numbering the plaint, the court should not ask queries that touch



C.R.P.No.4732 of 2024

WEB COPY

upon the judicial powers of the court. This is because numbering the plaint is a ministerial act, and not a judicial one.

12. The issue of limitation is a mixed questions of law and fact. A reading of the plaint shows that the plaintiffs have urged that the document, on the basis of which the first defendant claims right over the property, is a forged one. When the plea is of forgery, I am not in a position to understand as how the court is holding that the document is valid and asking the plaintiffs to explain the delay from 1970 till 2024.

13. Forgery implies that the actual owner of the property has not fixed his signature or thumb impression to the document. If the father of the plaintiffs had executed a document, then knowledge can be imputed to the plaintiffs. When the plea is that the father had never executed any document, I am not sure how the learned Judge came to the conclusion that the document was, in fact, executed by the father. This plea that the document is forged requires evidence. It cannot be decided at the time of numbering.



C.R.P.No.4732 of 2024

WEB COPY

14. For the purpose of determining jurisdiction, the averments made in the plaint alone matter. The averments in paragraph Nos.6 and 7 make it clear that the case of the plaintiffs is that the document is a forgery. A suit for a declaration that the document is forged must be filed within three years from the date of acquiring such knowledge.

15. The plaintiffs have pleaded that they came to know about the said document in August 2024 and have filed the suit soon thereafter. Therefore, the return made by the learned Subordinate Judge at Denkanikottai on 29.10.2024 is set aside. The learned Subordinate Judge, Denkanikottai is directed to number the plaint if it is otherwise in order. This civil revision petition is ordered. No cost.

26.11.2024

nl

Note: Registry is directed to return the original impugned returns to the learned counsel for the petitioners after obtaining necessary copies and endorsements.

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no



C.R.P.No.4732 of 2024

WEB COPY

To

The Subordinate Judge, Denkanikottai



WEB COPY



C.R.P.No.4732 of 2024

V.LAKSHMINARAYANAN, J.

nl

C.R.P.No.4732 of 2024

26.11.2024