



C.R.P(MD)No.774 of 2019

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.04.2024**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.774 of 2019

and

C.M.P(MD)No.4748 of 2019

Murugan

... Petitioner / Petitioner/
Plaintiff

Vs.

1.Premavathi

2.Mariyammal

3.Senthivel

4.Mariselvi

5.M.Pavunu

... Respondents/Respondents/
Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order, dated 18.03.2019 made in I.A.No.97 of 2019 in O.S.No.22 of 2014 on the file of the District Munsif Court, Madurai Taluk, Madurai.

For Petitioner : Mr.J.Lawrance

For Respondents : Mr.A.Arumugam



C.R.P(MD)No.774 of 2019

ORDER

WEB COPY

The present revision petition has been filed by the plaintiff in a suit for permanent injunction, challenging the order passed by the trial Court in I.A.No.97 of 2019 wherein the request of the petitioner for amendment of plaint has been rejected.

2. The revision petitioner had filed O.S.No.22 of 2014 before the District Munsif Court, Madurai Taluk, Madurai for the relief of permanent injunction, restraining the respondents from interfering with the peaceful possession and enjoyment of the petitioner in respect of the suit property. The said suit was filed on 27.01.2014. Pending suit, the plaintiffs had filed I.A.No.97 of 2019 seeking to amend the plaint to incorporate a prayer for a declaration to declare that a registered sale deed, dated 23.06.2008 is valid and binding and consequently by permanent injunction, restraining the defendants from in any way trying to interfere with the peaceful possession and enjoyment of the property. This interim application was filed on 04.02.2019. The defendants in the suit had resisted the said application on the ground that the prayer sought for is clearly barred by limitation and therefore, the same cannot be entertained. The trial Court has accepted the said contention and has



C.R.P(MD)No.774 of 2019

rejected the application for amendment of plaint. Challenging the same, the present revision petition has been filed by the plaintiff.

3. The learned counsel appearing for the revision petitioner has contended that the defendants have filed a written statement in a connected suit in O.S.No.40 of 2015 in October 2015. Only in the said written statement, they have relied upon this particular sale deed. Having come to the knowledge of that document, such a prayer has to be sought for in the present suit. At the time of considering the amendment application, the merits of the amendment sought to be introduced, should not be looked into. Hence, he prayed for allowing the revision petition and to incorporate the prayer for declaration in the pending suit. He further contended that, this amendment would prevent multiplicity of proceedings.

4. Per contra, the learned counsel appearing for the respondents had contended that the application for amendment of the plaint is clearly barred by limitation and therefore, the question of avoiding multiplicity of proceedings would not arise. Hence, he prayed for sustaining the order passed by the trial Court.



C.R.P(MD)No.774 of 2019

5. I have carefully considered the submission made on either side and perused the material records.

6. The plaintiff had filed the suit in January 2014 seeking a prayer for permanent injunction. A perusal of the typedset of papers clearly indicate that the defendants in the present suit have filed a written statement in a connected suit in O.S.No.40 of 2015 in October 2015, wherein they have raised the issue relating to sale deed, dated 23.06.2008. It is pertinent to point out that the present plaintiff is also a party to O.S.No.40 of 2015. Therefore, the present plaintiff is aware of the dispute raised by the defendants in O.S.No.40 of 2015. However, the present application for amendment has been filed after a period of 3 years, namely on 04.02.2019. As per Article 58 of the Limitation Act, any prayer for declaration has to be sought for within a period of 3 years from the date when the right sue first accrues. In the present case, the right to sue had accrued to the plaintiff in October 2015. However, the amendment application having been filed on 04.02.2019 is clearly barred by limitation. In the said circumstances, there is no illegality or infirmity in the order passed by the trial Court. There are no merits in the revision petition.



C.R.P(MD)No.774 of 2019

7. Hence, this Civil Revision Petition stands dismissed. No costs.

Consequently, connected Civil Miscellaneous Petition is closed.

02.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

gbg

To

- 1.The District Munsif Court,
Madurai Taluk,
Madurai.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P(MD)No.774 of 2019

R.VIJAYAKUMAR ,J.

gbg

Order made in
C.R.P(MD)No.774 of 2019

02.04.2024