



C.R.P(MD)No.835 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.12.2024

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)No.835 of 2020

G.Pethanan ... Petitioner / Third Party

Vs

1.Pethakkal ... 1st Respondent / 2nd Plaintiff

2.Veerakkal ... 2nd Respondent / Decree holder

3.Rani

4.Mangayarkarasi

5.Mayilmeena ... Respondents 3 to 5 /
Legal heirs of Defendant No.1

6.Ramar

7.Ramakrishnan

8.Malairaja ... Respondent Nos.6 to 8 /
Legal heirs of Defendant No.2

Prayer : This Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the order dated 17.08.2020 made in E.A.No.20 of 2017 in E.P.No.3 of 2016 in I.A.No.312 of 1993 in O.S.No.1046 of 1989

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on the file of the District Munsif cum Judicial Magistrate, Peraiyur and number the same.

For Petitioner : Mr.S.Rajasekar

For R1 to R8 : No appearance

ORDER

This Civil Revision Petition is filed to set aside the order dated 17.08.2020 made in E.A.No.20 of 2017 in E.P.No.3 of 2016 in I.A.No. 312 of 1993 in O.S.No.1046 of 1989 on the file of the District Munsif cum Judicial Magistrate, Peraiyur and number the same.

2. The suit in O.S.No.1046 of 1989 was filed by the first respondent and one Veerakkal W/o.Late.Sangara Thevar, against one Marnadu, Muniammal and Veerakkal W/o. Vellaichamy, seeking partition and separate possession and their 2/5th share and for cost. The suit was decreed as prayed for with cost. Against which no appeal was preferred. Final decree application was filed in I.A.No.312 of 1993 wherein advocate commissioner report was filed. Final decree was passed on 29.09.2000. Later to execute the final decree, E.P.No.3 of



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2016 was filed by the decree holder. The present revision petitioner as a third party filed E.A.No.20 of 2017 under Order 21 Rule 47 C.P.C, claiming right over the property. That came to be dismissed by the trial Court against which this Civil Revision Petition is preferred.

3. Eventhough the respondent was served none appears and their names are printed in the cause list. After hearing learned counsel for the petitioner this order is passed.

4. In the claim petition, the revision petitioner has stated that one Gurusamy who is the predecessor in title or the ancestor as the case may be had two wives. Through the first wife, one Kandasamy and Periyasamy were born. Through the second wife, one Sangara Thevar, Kandavel Thevar and Rama Thevar were born. The revision petitioner, is the son of Kandasamy. Periyasamy had two wives, through which Pethakkal was born. Through the second wife one Marnadu and Veerakkal were born. The suit was filed by Pethakkal against Veerakkal and others as stated above.



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5. According to the revision petitioner, this is nothing but a collusive suit based upon false particulars. The property never belonged to Sankara Thevar. By suppressing the real fact, the decree has been obtained. Apart from that it is stated in the petition that during the pendency of the suit proceeding, Pethakkal agreed to sell her share to him and executed a consent letter on 12.05.2005. Later in the year 2005, there was a compromise between the parties. Marnadu executed a sale deed in respect of his share in favour of the petitioner on 09.05.1994. Ever since he is in possession. He is also referring to a sale deed dated 07.04.2005. The 5th item was purchased by him from one Hariram on 01.02.2017. When the Amin came to the property for executing the decree, suit particulars were brought to his knowledge. Since Pethakkal, received the sale consideration suppressing the true facts, she filed the execution petition. Another ground taken is that the suit properties were already under attachment in O.S.No.50 of 2017.

6. That was resisted by the respondent by filing a counter. The trial Court recorded a finding that the sale deed mentioned by the petitioner dated 09.05.1994 and 12.05.2005 were not produced by him.



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Pending I.A.No.312 of 1993, this petitioner filed I.A.No.670 of 1998 to implead one Sethuraman and one Hariram. That application, after hearing both sides, was dismissed. The copy of the same was produced by the respondent as Ex.R1. Suppressing the dismissal of I.A.No. 670/1998, the present petition is filed. So the petitioner has not approached the Court with clean hands.

7. Reading of the order passed by the trial Court clearly indicates that it is the second attempt made by the revision petitioner to stall the execution petition. When he filed an application claiming right over the property, he ought to have produced all the relevant documents to prove the title and the purchase, as the case may be. He has produced only a document under Ex.P2 dated 01.02.2017, alleged to have purchased from one Hariram. How the Hariram has become the title holder of the suit property, was not explained by him. Apart from that, the consent letter alleged to have been executed by Pethakkal was not produced, so also, the sale deed alleged to have been executed by Marnadu. Apart from that, there is clear suppression of fact with regard to I.A.No.670 of 1998.



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8. When the petitioner has not approached this Court with clean hands, he is not entitled for any relief before this Court. Apart from the above said defects in the merits, for all those reasons I find no reason to interfere with the order dated 17.08.2020 made in E.A.No.20 of 2017 in E.P.No.3 of 2016 in I.A.No.312 of 1993 in O.S.No.1046 of 1989 by the District Munsif cum Judicial Magistrate, Peraiyur.

9. For all those above said reasons, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

02.12.2024

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

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To

- 1.The District Munsif cum Judicial Magistrate, Peraiyur.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.

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ORDER
IN
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