



WEB COPY



C.R.P.(PD).No. 233 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.02.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD).No. 233 of 2025

&

C.M.P.No. 1545 of 2025

Mariyammal

...Petitioner

Vs.

Ramaye (Died)

1.Thangam

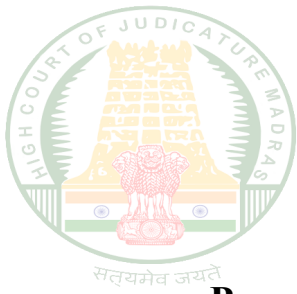
2.Ilamathi

3.Thanji

4.Sakthivel

5.Premkumar

...Respondents



C.R.P.(PD).No. 233 of 2023

WEB COPY

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order passed in IA.666 of 2023 in OS.No.4 of 2015 dated 22.01.2024, on the file of the District Munsif, Sankarapuram.

For Petitioner : Mr. V.Gunasekar

ORDER

The CRP is filed challenging the dismissal of the application filed under Section Order XVIII Rule 17 of the Code of Civil Procedure seeking to recall P.W.1 for further examination and marking of documents. The facts are briefly set out herein below and the parties are referred to in the same rank as before the Trial Court.

2. The plaintiff filed the suit O.S.No.4 of 2015 on the file of the District Munsif, Sankarapuram, for a partition and separate possession of her 1/4th share in the suit property. The petitioner's contention was



that the suit schedule property was the ancestral property of her father, Sanyasi. The 1st defendant is the wife of Sanyasi and the mother of the plaintiff and the defendants 2, 3 and 4. The 5th defendant is the son of the 2nd defendant. The 6th defendant is the son of the 4th defendant.

3. The plaintiff would submit that she is entitled to 1/4th share in the suit schedule property. In order to deprive the plaintiff of her share in the suit property the defendants 1 to 6 have colluded together and created a settlement deed dated 05.07.2005 in favour of the defendants 3, 5 and 6 in respect of the suit properties 1 to 6 and 9. The plaintiff became aware of the settlement deed only recently. The plaintiff made several attempts to get the property partitioned and her share allotted to her. However, they have not come forward to comply with the request. Therefore, the plaintiff has come forward with the suit in question.

4. A written statement was filed by the defendants denying the plaintiff's claim. They would rely upon the settlement deed executed by Sanyasi in favour of defendants 3, 5 and 6.



WEB COPY

5. When the matter was listed for argument the plaintiff has come forward with an application to recall P.W.1's evidence.

6. In the affidavit filed in support of the said petition, the plaintiff would contend that her father Sanyasi sold ancestral property under a sale deed dated 19.09.1981 and from out of the income he had purchased portion of the suit properties. The properties have been purchased only from the joint family income. Therefore to mark certified copy of this sale deed, she had filed I.A.No.666 of 2023.

7. The defendants filed a counter to the said application inter alia contending that the application was only an attempt to protract the proceedings and further the certified copy which is sought to be marked had been obtained on 15.09.2021 and in the affidavit filed in support of the petition it has been wrongly stated that the certified copy was obtained recently.



WEB COPY

8. By order dated 22.01.2024, the learned Trial Judge dismissed the application. The learned Judge had held that there was no pleading that the suit properties had been purchased from out of the joint family funds. That apart, the application was highly belated and moved at the time when the petition was posted for arguments and no satisfactory reasons have been given for this delay.

9. Aggrieved by the same, the plaintiff is before this court.

10. Heard the learned counsel appearing for the plaintiff / petitioner.

11. The plaintiff had come to the Court stating that the property in question is an ancestral one and that the plaintiff and the defendants were equally entitled to the same as legal heirs of the said Sanyasi. The plaintiff had also stated that the settlement deed executed by Sanyasi



was a forged document. Through the impugned application, the plaintiff seeks to introduce a new case that Sanyasi had sold ancestral property and from out of the income obtained through the sale of the ancestral property the suit properties have been purchased. Therefore, the suit properties were ancestral properties. However, pleadings in this regard is absent and the plea has been taken only in the affidavit filed in support of the impugned application.

12. That apart, the Trial in this case has commenced as early as on 08.01.2020. The matter was listed for arguments on 29.03.2023. Therefore, the ground on which the petition has been rejected is well founded. I see no reason to set aside the same.

13. The Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

05.02.2025

Index : Yes/No
Internet : Yes/No



kan

WEB COPY

To

The District Munsif,
Sankarapuram.



C.R.P.(PD).No. 233 of 2023



WEB COPY



C.R.P.(PD).No. 233 of 2025

P.T. ASHA, J,

kan

C.R.P.(PD).No. 233 of 2025

05.02.2025