



CRP(PD).No.1780 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2025

WEB COPY

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

CRP.(PD).No.1780 of 2025

and

CMP.No.10264 of 2025

1.Selvam
2.Shantha
3.Karunakaran

... Petitioners

Vs.

1.B.Suganthi
2.Mrs.Uma
3.Mrs. Vasanthi
4.Mrs.Geetha
5.Mrs.Sasirekha

... Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 29.04.2024 in IA.No.4 of 2021 in OS.No.252 of 2020 passed by the learned Additional District Judge, Chengalpattu.



WEB COPY

CRP(PD).No.1780 of 2025



For Petitioner : M/s.R.Ganesh Kumar

ORDER

Challenging the dismissal of their application for rejecting the plaint, the defendants 1, 2 and 7 have filed the above civil revision petition.

2. The short facts which have led to the filing of this Civil Revision Petition are hereinbelow set out and the parties are referred to in the same same litigative status as before the Additional District Court at Chengalpattu.

3. The plaintiff had filed the suit OS No.252/2020 on the file of the Additional District and Sessions Judge Chengalpattu for declaration of her title to the suit schedule property and for a consequential relief of permanent injunction restraining defendants, their men, agents or servants or anyone claiming through them from interfering with her possession and enjoyment of suit schedule properties as also for a declaration of her possessory title and



consequential relief of permanent injunction.

WEB COPY

4. The plaintiff would submit that originally the suit schedule properties belonged to the joint family of Rangasamy Reddiar. Under a registered partition deed dated 20.10.1959, the suit schedule properties were allotted to the share of the plaintiff's adoptive father Sri Venkatasamy Reddiar. The plaintiff would submit that she has been living with her adoptive parents since she was a 10-month-old baby.

5. The plaintiff would further submit that although her adopted father has executed a registered sale deed allegedly transferring the properties in favour of one D.Muthusamy Mudaliar, father of defendants 1 to 6, however, the sale deed was never acted upon and the possession continued to remain with her adoptive father who was in absolute possession and enjoyment of the same. The said Venkatasamy Reddiar had also dealt with the properties by selling some of the properties and receiving sale consideration for himself which clearly go to show that the sale deed executed in favour of the



WEB COPY

Muthusamy Mudaliar was never acted upon. That apart, Venkatasamy Reddhar had executed a Will dated 03.02.1987 bequeathing all his properties in favour of his wife Rukmani Ammal for life and thereafter upon the plaintiff. All of this would clearly indicate that the sale deed dated 10.12.1959 was never acted upon. Venkatasamy Reddhar had died on 19.02.1993, leaving behind surviving the plaintiff and her adoptive mother. The plaintiff's adoptive mother Rukmani Ammal had executed a registered Will dated 19.11.1996, bequeathing all her properties in favour of the plaintiff. Rukmani Ammal had died on 03.10.2003, leaving behind her surviving the plaintiff as the sole legal heir. Therefore, the plaintiff had become the absolute owner of the suit schedule properties.

6. While so, the defendants with an intention to make a wrongful gain are trying to assert a right to the suit properties after the demise of Muthusamy Mudaliar on 10.09.2010. During his lifetime, Muthusamy Mudaliar had not staked a claim to the suit properties. Criminal complaints have also been lodged by the plaintiff against the defendants. Further, the defendants have also attempted to mutate the



revenue records in their name which was objected to by the plaintiff.

The plaintiff would submit that the defendants are taking law into their hands and, therefore, left with no other alternative, she has come forward with the suit in question.

7. The petitioners/defendants 1, 2 and 7, after entering appearance in the suit, have come forward to file the above application to reject the plaint on the ground that the 1st respondent/plaintiff has taken out inconsistent pleas, one based on a Will and the other based on an alleged possessory right. They would further submit that the suit filed is barred by limitation since the sale deed had been executed in favour of Muthusamy Mudaliar in the year 1959, Venkataswami Reddiar had died in the year 1993, his wife died in the year 2003 and the suit for declaration has been filed in the year 2020.

8. The petitioners/defendants 1, 2 and 7 would also submit that the suit has not been valued properly and consequently, the court fees paid was incorrect. The petitioners/defendants 1, 2 and 7 would further submit that the plaintiff has come to Court with a false case



and there is no cause of action for the filing of the suit..

WEB COPY

9. The 1st respondent/plaintiff has filed a counter denying the allegations. The 1st respondent/plaintiff would submit that the cause of action for the filing of the suit has been set out in detail in the plaint.

10. The Additional District Judge, Chengalpattu by her order dated 29.04.2024 has dismissed the said application against which the present revision has been filed.

11. Heard the counsel for the petitioner and perused the records.

12. The plaintiff has come to court contending that though her adoptive father had sold the property to Muthusami Mudaliar, the sale was never given effect to as possession continued to remain with Venkatasami Reddiar and Venkataswami Reddiar has also been dealing with the property even after the sale. After the death of Muthusami Mudaliar, the defendants 1 to 6, who had not taken



possession of the property during the life time of Muhusamy Mudaliar, are now attempting to interfere with the plaintiff's peaceful possession and enjoyment of the suit property. Therefore, a cause of action has been pleaded by the plaintiff. As regards the valuation of the suit property, the plaintiff has sought for declaration of title and consequential injunction and the court fee has been paid as per Section 25(b) of the Court Fees Act which is a proper and correct. The issue of limitation involves mix question of law and fact, therefore a plaint cannot be rejected merely on the ground of limitation.

13. The plaintiff's case is that she is in possession and enjoyment of the suit property and prior to her, her adoptive parents have been in possession and enjoyment and Muthusami Mudalair had never been in possession of the suit property. Whether the statement made by the plaintiff is correct has to be decided in trial. Therefore, the learned Additional District Judge, Chengalpattu has rightly rejected the application and I see no reason to hold otherwise.

14. Accordingly, the Civil Revision Petition stands dismissed.



CRP(PD).No.1780 of 2025

No costs. Consequently, the connected Miscellaneous Petition is closed.

WEB COPY

24.04.2025

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

1.The_Additional District Judge, Chengalpattu

P.T. ASHA. J.,



WEB COPY



CRP(PD).No.1780 of 2025

(shr)

CRP.(PD).No.1780 of 2025
and
CMP.No.10264 of 2025.

24.04.2025