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C.R.P. No.1187 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Reserved On</i>	<i>21.03.2025</i>
<i>Pronounced on</i>	<i>21.05.2025</i>

CORAM:

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P. No.1187 of 2022 and
C.M.P. No.6313 of 2022

Yasodha

... Petitioner

Vs

1.M/s.Sri Kaliappa Trust
Rep. by its Chairman Sri T.Jaganathan
No.13, East Sambandam Road
R.S.Puram, Coimbatore - 641 002

2.Mrs.T.Radha

3.T.Jaganathan

4.T.Gowrishankar

5.K.R.Jayaraman

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed in I.A. No.2 of 2020 in Trust O.P. No.112 of 2020 dated 26.03.2021 by the learned Principal District Judge, Coimbatore.



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For Petitioner : Mr.R.Sankarasubbu
for Mr.R.Ganesh Babu

For Respondents : Ms.R.Mahamandra Rajalakshmi

ORDER

The present civil revision petition is filed challenging the order passed in I.A. No.2 of 2020 in Trust O.P. No.112 of 2020 dated 26.03.2021 by the learned Principal District Judge, Coimbatore.

2. The revision petitioner had originally filed this application as a proposed respondent in the above Trust OP No.112 of 2020 under Order I Rule 10(2) of CPC to implead herself as the second respondent in the main Trust OP. The contention of the revision petitioner is that the Trust is a non-existing institution, which had become defunct since a long time.

3. It is the further contention of the revision petitioner that the respondents 1 to 4 herein had filed the Trust Original Petition with a view to grab the property. According to the revision petitioner, the property was originally purchased by one Arumuga Asari vide sale deed dated 11.04.1960.

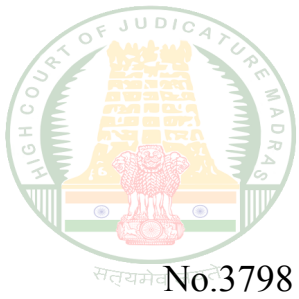


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The said Arumuga Asari passed away on 25.07.1993, leaving behind his legal heirs, who in turn were in joint possession of the property. The revision petitioner claims that she is the wife of the elder son of Arumuga Asari, namely Shanmugam. The three sons of the said Arumuga Asari including the petitioner's husband died. The surviving legal heirs of the said Arumuga Asari had executed a release deed dated 20.09.2011 in favour of their mother Pankajam and the said Pankajam died on 25.11.2016. The Trust, which was arrayed as the first respondent was created on 24.04.2011 by late Thangavelu and his legal heirs, namely respondents 2 to 4.

4. According to the revision petitioner, the said Arumuga Asari had availed loan for a sum of Rs.2.25 lakhs from the deceased Thangavelu in the year 1990 and the said Thangavelu had obtained signatures from the said deceased Arumuga Asari in blank papers, which included stamp papers. By virtue of the said papers, a fabricated sale agreement was created on 17.08.1990. According to the revision petitioner, the respondents 1 to 4 have created forged documents, which were said to be executed by late Thangavelu. A suit was filed by the said Thangavelu in O.S. No.630 of 1998, which was transferred to District Munsif Court, coimbatore and re-numbered as O.S.



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No.3798 of 2004. The said suit was decreed, the appeal suit and second appeal filed by Nagammal and others were dismissed.

5. The petitioner filed a suit in O.S. No.2688 of 2013 before the First Additional District Munsif Court, Coimbatore to declare the judgment and decree in O.S. No.3987 of 2004 as null and void. The respondents 1 to 4 have filed an application to reject the plaint and the same was allowed. As against the same, an appeal was preferred by the revision petitioner in A.S. No.38 of 2014 and the same was allowed. The judgment passed by the trial court was set aside. Challenging the same, a civil miscellaneous appeal was filed by the respondents in C.M.A. No.1057 of 2015 and the said civil miscellaneous appeal was dismissed. Against the dismissal of the civil miscellaneous appeal, the first respondent Trust and others preferred a special leave petition in S.L.P. (Civil) No.5653 of 2016 and the Hon'ble Apex Court finding some apparent errors therein, remanded the matter back to the file of this court on 12.07.2016 for fresh disposal. Thereafter, the civil miscellaneous appeal was allowed by this court on 01.08.2019. The petitioner and her family members have preferred a review application against the judgment in C.M.A. No.1057 of 2015 and the same is pending.



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6. The contention of the respondents is that the original owner Arumuga Asari, along with his wife, son and daughters entered into an agreement for sale with one K.Thangavel. After receiving the sale consideration, on 24.04.1992, Arumuga Asari had executed a Power of Attorney in favour of K.Thangavel. On the same day, Arumuga Asari and his legal heirs jointly executed one "Vuruthimozhi Pathiram" in favour of K.Thangavel. Thereafter, documents of title and possession was handed over to K.Thangavel. Thereafter, K.Thangavel had settled 5.00 acres of land in favour of the 1st respondent Trust, as per the registered settlement deed, dated 25.07.1993. Further, he sold the remaining land to some third parties. Subsequent to the death of Arumuga Asari, suppressing the above said settlement in favour of the first respondent Trust and the sale deed in favour of third parties, the legal heirs of Arumuga Asari, had created a sale deed, dated 12.06.1998, in respect of entire 6.40 acres of land in favour of one Nagammal and her three sons.

7. It is stated that subsequent to the judgment in C.M.A. No.1057 of 2015, the first respondent Trust and others also filed a suit in O.S. No.846 of 2019 before the II Additional Subordinate Judge, Coimbatore for a declaration



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that the sale in favour of Nagammal is not valid and binding upon the Trust and the suit was decreed in favour of the Trust on 15.11.2019. As per the respondents, in all the earlier proceedings, the legal heirs of Arumuga Asari did not take a defence that the Trust is not in existence. The Trust has come forward with the present Trust Original petition seeking to sell the petition mentioned property, so as to effectively carry out its various other objects. The petitioner or the other legal heirs of Arumuga Asari do not have right, title or possession of the petition mentioned property so as to raise any objection in the present petition.

8. The revision petitioner contended that she is an interested person in the Trust OP and prayed that her right cannot be rejected, as she is the wife of the elder son of Arumuga Asari, the original owner of the property.

9. Per contra, the learned counsel appearing for the respondents would contend that the petitioner has no right in view of the categorical finding rendered in C.M.A. No.1057 of 2025 on 01.08.2019.

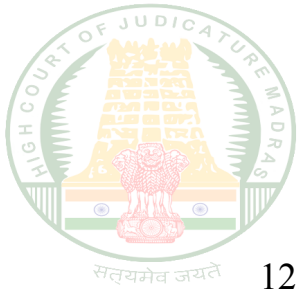


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10. On a careful perusal of the order under challenge in this civil revision petition, this court is of the view that the matter has already been settled in favour of the respondents. The suit in O.S. No.630 of 1998 filed by Thangavelu, which was transferred and re-numbered as O.S. No.3987 of 2004 was decreed in favour of Thangavelu on 30.10.2006 and the appeals filed by the subsequent purchaser Nagammal and others were dismissed. The second round of litigation initiated by the revision petitioner by filing O.S. No.2688/2013 to declare the judgment and decree passed in O.S. No.3987 of 2004 as null and void had attained finality in C.M.A. No.1057 of 2015 made against A.S. No.38 of 2004.

11. From the above discussions, it is clear that the petitioner, who is a third party has no right to get herself impleaded in the Trust original petition. This court does not find any error or infirmity in the order of the learned Principal District Judge, Coimbatore dated 26.03.2021 passed in I.A. No.2 of 2020 in Trust O.P. No.112 of 2020 and the same deserves no interference by this court.



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12. Accordingly, the civil revision petition fails and the same is dismissed. However, there is no order as to costs. Consequently, the connected civil miscellaneous petition is closed.

21.05.2025

Index : Yes / No
Neutral Citation : Yes / No
Asr

To

The Principal District Judge, Coimbatore



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N.SENTHILKUMAR, J.

Asr

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