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Civil Revision Petition No. 1280 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.03.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.PD.No.1280 of 2024
and C.M.P.No.6770 of 2024

K.M.P.Shankaran

... Petitioner

Vs

1. S.Rajamani
2. Natarajan
3. Kannan
4. Jaya

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order and decree dated 04.03.2024 in I.A.No.11 of 2024 in O.S.No.252 of 2018 on the file of I Additional District Judge, Salem.

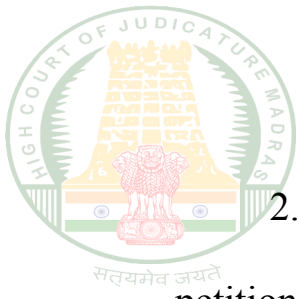
For Petitioner : Mr.R.Rajarajan

For Respondents

1 to 4 : Mr.P.Mathivanan

ORDER

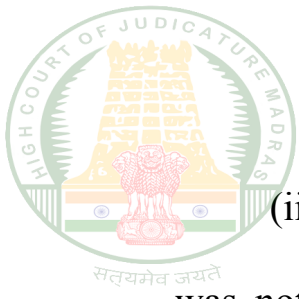
The 5th defendant is the revision petitioner before this Court. He seeks to challenge the order passed by the learned I Additional District and Sessions Judge, Salem in I.A.No.11 of 2024 in O.S.No.252 of 2018.



2. The facts, which are required for appreciating the grievance of the petitioner, are herein below set out: The parties, for ease of understanding, are referred to in the same ranking as before the trial Court.

(i) The plaintiffs had filed the aforesaid suit seeking a declaration that they are the absolute owners of the suit properties as legal heirs of the deceased Jagannathan and for consequential injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the suit properties, declaring the documents(16 in numbers) which has been appended to the plaint as null and void and for permanent injunction restraining the defendants from in anyway alienating or creating encumbrance over the suit schedule properties.

(ii) The plaintiffs had contended that the property belonged to one Kullu @ Sengoda Gounder and his wives, Pavayammal and Chinnammal. The said Sengoda Gounder had 4 sons and 1 daughter through his 2nd wife, Chinnammal who are the plaintiffs 1 to 4. Sengoda Gounder died on 12.02.1981.



(iii) One Jagannathan, S/o.Sengoda Gounder led a wayward life and was not married. After the death of the said Sengoda Gounder, he had demanded for a partition of his share and filed O.S.No.689 of 1995 on the file of the Sub Court, Salem against the plaintiffs and wives of Sengoda Gounder. In a panchayat held thereafter, he was allotted Item No.9 therein and a final decree was passed by way of compromise on 25.03.1996. The Sengoda Gounder did not take care of the property but had been receiving money from the plaintiffs 1 to 3, who had taken care of him and the property. Subsequently, Jagannathan had died on 06.03.2007 leaving behind the plaintiffs alone as his Class-II legal heirs.

(iv) Meanwhile, one, Sakthivel gave a false complaint to the police authorities claiming to be the son of the said Jagannathan through the 1st defendant. The complaint was thrown out after enquiry and thereafter he started creating documents in favour of the 3rd defendant. On coming to learn about this, the 2nd plaintiff had filed O.S.No.927 of 2013 on the file of the District Munsif, Salem for permanent injunction restraining the 2nd defendant and his men from interfering with the possession and from alienating or creating encumbrance on the property. Sakthivel filed a suit



O.S.No.189 of 2014 on the file of the District Munsif, Salem for injunction and the same is pending. In the suit O.S.No.927 of 2013, the 2nd plaintiff had the benefit of injunction.

(v) It is the further case of the plaintiffs that the 2nd defendant managed to obtain a legal heirship certificate from the Tahsildar, Salem on 06.11.2013 as if he and the 1st defendant are the legal heirs of the said Jaganathan. On objection made by the plaintiffs before the Revenue Divisional Officer, Salem, the legal heirship certificate was cancelled on 09.06.2014. Meanwhile, the defendants 1 and 2 along with 3rd defendant had created various documents. They would contend that the defendants 1 and 2 are not the legal heirs of the deceased Jagannathan, who died as a bachelor and that their claim is absolutely false. The plaintiffs, as the legal heirs of Jagannathan, are entitled to the property in question. Hence, they have come forward with the suit in question.

3. The 5th defendant had filed a written statement *inter-alia* denying the contents raised in the plaint. He would submit that Jeganathan was married to the 1st defendant through whom the 2nd defendant was born. The



5th defendant had purchased a part of the I item of the property under a Sale Deed dated 04.07.2016 for a valid consideration and since the date of the purchase, he has been in exclusive possession and enjoyment of the property having perfect title and interest. The I item of the suit property is a self acquired property of the 1st defendant which he had purchased on 04.07.2016 under Document No.3957 of 2016 on the file of the Sub Registrar Office, Salem.

4. The 5th defendant had asked the 6th defendant to lend him money for his business needs and the 6th defendant had agreed for the same subject to the 5th defendant offering the suit property as a security by way of mortgaging. Accordingly, the 5th defendant had mortgaged the property in favour of the 6th defendant. After the 5th defendant had repaid the entire loan and when he had requested the 6th defendant to cancel the mortgage deed, he came to learn that the 6th defendant, instead of creating mortgage deeds, had prepared Sale Deeds dated 12.08.2016 and 02.11.2016 and obtained the signature of the 5th defendant. Only on perusing the encumbrance certificate, the fraud played by the 6th defendant became known to the 5th defendant. The 5th defendant had filed a suit O.S.No.327 of



2017 on the file of the Additional District Munsif-III, Salem seeking absolute ownership of the I item of the suit property, declaring the sale deed in the name of the 6th defendant dated 12.08.2016 and 02.11.2016 as null and void and for mandatory injunction directing the 6th defendant to hand over the original sale deed in the name of the 5th defendant. The defendants would submit that there is no cause of action and hence, sought for dismissal of the suit.

5. When the suit was posted for arguments, the 5th defendant has come forward with the impugned application for filing the additional documents. The contention of the 5th defendant is that these documents have been obtained by him only pursuant to the petition filed by him under the RTI Act where he came to know that the Tahsildar order dated 06.11.2013 namely the legal heirship certificate which the defendants 1 and 2 obtained in respect of Jegannathan had not been cancelled. He had also thereafter filed a petition before the Revenue Divisional Officer on 11.05.2023 to cancel the legal heirship certificate dated 20.09.2017 issued in favour of the plaintiffs. The 5th defendant would submit that the plaintiffs had fraudulently introduced one Rajeswari as the legal heir of the said



Jagannathan. On the basis of a legal heirship certificate dated 20.04.2007 by the Salem West Tahsildar, the 5th defendant had made an application to the Public Information Officer on 03.07.2023 about the aforesaid legal heirship certificate. On 04.08.2023, he received a letter from the Public Information Officer that there was no such file in the record room. In order to exhibit these documents, it becomes necessary for the 5th defendant to file an additional written statement so as to mark these documents.

6. The plaintiffs had filed a counter statement *inter-alia* denying the claim of the 5th defendant and contended that the Revenue Divisional Officer passed the order which was confirmed by the District Revenue Officer. The plaintiffs would contend that the said application is nothing but an abuse of process of law and attempt to protract the proceedings. No reasons have been given for receiving the additional documents. Therefore, they sought for dismissal of the said application.

7. The learned I Additional District Judge, Salem proceeded to dismiss the application by holding that the documents received under RTI is not sustainable and further, the application has been moved when the matter is



at the verge of the dismissal of the suit. Challenging the same, the petitioner/5th defendant is before this Court.

8. A perusal of the records would indicate that the 5th defendant had obtained certain information under the RTI, one of which is the fact that the legal heirship certificate issued in favour of the defendants 1 and 2 has not been cancelled by the Tahsildar contrary to the pleadings made by the plaintiffs. Further, with the active connivance of the plaintiffs, one Rajeswari claimed to be the legal heir of Jagannathan. The said Rajeswari is in no way connected with Jaganathan. However, she went around claiming to be his wife and claimed a right on the basis of a legal heirship certificate dated 20.04.2007. This document is also found to be false as per the response of the Public Information Officer to the RTI query raised by the plaintiffs. These documents are vital for proving / disproving the case of the plaintiffs / defendants respectively. The plaintiffs have come to learn about the documents only after the evidence has been let in. The plaintiffs would contend that Jagannathan was a bachelor and he has himself admitted to the same in the suit O.S. 689 of 1995 filed by him on the file of the Principal Subordinate Court, Salem. However, the plaintiffs herein, who were



defendants 3 to 6 in the aforesaid suit and who had not denied the said statement, have now introduced Rajeswari as the legal heir of the deceased Jagannathan. Further, the plaintiffs in the plaint have stated that Jagannathan was not married (Para (iv) of the plaint). The 5th defendant, who is a purchaser from defendants 1 and 2 in his written statement pleaded that the 1st defendant is the wife of Jagannathan and the 2nd defendant his son, and has come forward with this petition. He must be given an opportunity to prove his case. Since there are pleadings in support of these documents, the Learned Judge ought to have allowed the petition. Therefore, the order passed by the I Additional District Judge, Salem is erroneous and the same has to be set aside. Accordingly, this Civil Revision Petition is allowed and the order dated 04.03.2024 is set aside. No costs. Consequently, connected miscellaneous petition is closed.

11.03.2025

Index: Yes/No

Speaking order/non-speaking order

Neutral Citation: Yes/No

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To,

The I Additional District Judge, Salem.



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P.T.ASHA, J.,

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