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C.R.P.(PD) No.1585 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.04.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD) No.1585 of 2025
and CMP.No.9202 of 2025

1.K.Asha
2.G.Aruna

... Petitioners / Plaintiffs

Vs.

C.Annamalai (Died)
A.Sivagami Sundari (Died)

1.A.Annadurai
2.C.Ashwini
3.C.Akash

... Respondents / Defendants

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to allow this civil revision petition and to set aside the fair and decretal order dated 14.02.2025 passed in I.A.No.10 of 2024 in O.S.No.311 of 2010 by the Additional Subordinate Court, Vellore.

For Petitioners : Mr.T.Balachandran



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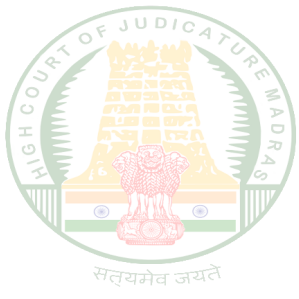


ORDER

Challenging the dismissal of the application filed by them seeking to amend the plaint, to include the prayer that the cancellation of settlement deeds dated 09.09.2010 and the subsequent settlement deed dated 20.09.2010 executed in favour of the second defendant, are null and void, the plaintiffs are before this Court.

2. The short facts are as follows :

a) The plaintiffs / revision petitioners have filed the suit in O.S.No.311 of 2010 on the file of the Additional Sub Court, Vellore, seeking for a declaration of title that the first item of the schedule mentioned property is in favour of the first plaintiff and second item of the schedule mentioned property is in favour of the second plaintiff and for a consequential injunction restraining the defendant, his men, agents, servants etc., from in manner interfering with the peaceful possession and enjoyment of the schedule mentioned property.



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- b) The plaintiffs' case is that the property in question was the self-acquired property of one Annamalai (originally the sole defendant in the suit), who is the father of the plaintiffs.
- c) Out of his love and affection, Annamalai had executed two settlement deeds both dated 27.10.2010, in favour of the first defendant and second defendant, in respect of Item No.1 and Item No.2 of the suit schedule property. From the date of settlement, both the plaintiffs are in possession and enjoyment of their respective shares.
- d) The plaintiffs would submit that the mutation of revenue records have also taken place and patta and chitta of the said properties stand in their names.
- e) While so, the defendant having no right or title to the schedule mentioned property, are attempting to trespass into the same and trying to dispossess the plaintiffs.
- f) Therefore, the plaintiffs have come forward with the suit in question.
- g) The sole defendant had filed the written statement, in which, he has clearly and categorically stated that the settlement deeds have



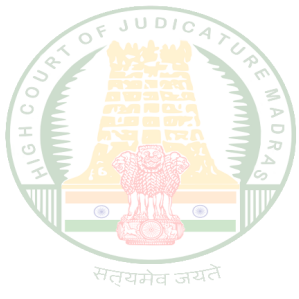
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been fraudulently created by the plaintiffs, by intoxicating him. He would submit that he and his family members, defendants 2 to 5 alone are in possession and enjoyment of the schedule mentioned property without any interruption and had never delivered the possession of the property to the plaintiffs at any point of time.

- h) The defendant, thereafter, cancelled the settlement deeds and these cancellation deeds have been filed along with his counter in I.A.No.619/2010, besides taking other defences.
- i) According to the revision petitioner, the application in I.A.No.619/2010 was filed by them seeking an ad-interim injunction against this sole defendant, in which, the Court below by order dated 07.07.2011, had granted injunction till the disposal of the suit.
- j) The sole defendant had passed away pending the suit and his other legal heirs were brought on record as defendants 2 to 5.
- k) The defendants 3 to 5 have filed their written statement. They would contend that the plaintiffs are the daughters born to the first defendant and his first wife Gothavari, on whose demise, the first



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defendant had married the second defendant, Sivagami Sundari, and out of their marriage, the defendants 3 to 5 were born. In the written statement they had also reiterated that the settlement deeds dated 27.01.2010 executed in favour of the plaintiffs by their father, the first defendant, had been cancelled, and pursuant to the same, he had executed a settlement deed in favour of his wife Sivagami Sundari, the second defendant, on 29.09.2010.

- 1) The plaintiffs thereafter have come forward to file I.A.No.10/2024 in O.S.No.311 of 2010, to include the relief that the cancellation of settlement deeds dated 09.09.2010 in Doc.Nos.9813/2010 and Doc.No.9814/2010 and the settlement deed dated 29.09.2010 executed by the first defendant in favour of the second defendant in Doc.No.10654/2010 are null and void, and to amend the suit pleadings accordingly. In the affidavit filed in support of this application, the plaintiffs would contend that they did not have the knowledge of above cancellation of the settlement deeds and subsequent transfer of the property in favour of the second defendant, however, they came to know about the said cancellation, only after seeing the written statement filed by



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defendants 3 to 5.

m) These defendants 3 to 5 opposed the said application by stating that the plaintiffs had come forward with a false case, as they are very much aware about the cancellation of the said settlement deeds even when the sole defendant had filed his written statement in the suit O.S.No.311/2010. Therefore, the relief itself is barred by limitation, and only in order to get over the limitation, such statement was made by the plaintiffs.

n) The learned Additional Subordinate Judge, Vellore, after hearing the parties, has dismissed the said application in I.A.No.10/2024 by order dated 14.02.2025.

Challenging the same, the present revision petition is filed.

3. Heard the learned counsel for the revision petitioners/plaintiffs.

4. The averments contained in the affidavit filed in support of this petition clearly brings out the falsity in the case of the plaintiffs. In the written statement filed by the first defendant (now deceased) on 02.03.2011, and in the counter statement to I.A.No.619/2010, the defendants had clearly



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and categorically stated that the settlement deeds have been cancelled by the first defendant. Therefore, as early as in the year 2011, the plaintiffs had the knowledge of the cancellation of said settlement deeds. However, they chose to remain silent, and after a period of 13 years, the present application is filed seeking to amend the plaint to declare that the cancellation of settlement deeds are null and void. The relief is clearly barred by limitation. The revision petitioners/plaintiffs ought to have taken steps, as soon as the written statement has been filed by the first defendant. Therefore, I see no reasons to interfere with the order passed by the learned Additional Subordinate Judge, Vellore, dated 14.02.2025 in I.A.No.10/2024 in O.S.No.311/2010.

5. The civil revision petition is dismissed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

17.04.2025

Index : Yes / No
Neutral Citation : Yes / No
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To:

- 1.The Additional Subordinate Judge
Vellore.
- 2.The Section Officer
VR Section, High Court, Madras.



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P.T. ASHA, J.

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