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C.R.P. NO.3376 OF 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15/12/2025

CORAM :

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.R.P. NO.3376 OF 2023

AND

C.M.P.NO.21014 OF 2023

Mr.Ramanujam

... Petitioner/ Petitioner/
nd
2 Defendant

Vs.

1.Mrs.Lakshmi
2.Sundara Babu
3.Ranganathan
4.Valarmathi
5.Narasimman
6.Kothandaraman
7.Dharashini(Minor)
Rep. by her mother Maheswari
8.Venkatesan
9.Srinivasan
10.Subathra
11.Parthasarathy

... Respondents 1 to 11 /
Respondents 1 to 11/
Plaintiffs

12.Sheela
13.Venkataraman

... Respondents 12 & 13 /
Respondents 12 & 13
Defendants 1 & 3

PRAYER : Civil Revision Petition filed under Article 227 of the

Constitution of India, 1950, praying to set aside the Order dated April 21,

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2023 passed in I.A.No.1 of 2019 in O.S.No.284 of 2018 on the file of the
Additional District Judge, Kancheepuram District at Chengalpattu.

For Petitioner : Mr.S.Karthikeyan

For Respondents-
1 to 5, 6, 7, 9 & 10 : Mr.D.Rajagopal

Respondents-
8, 11 & 13 : Batta due

Respondent-12 : Served. No Appearance

ORDER

The Revision Petitioner herein is the 2nd defendant in the Original Suit in O.S.No.284 of 2018 on the file of 'the Additional District Court, Kancheepuram District at Chengalpattu' (hereinafter referred to as the 'Trial Court'). The Respondents 1 to 11 herein are the plaintiffs and the respondents 12 & 13 are the defendants 1 & 3 in the aforementioned Suit. For the sake of convenience, the parties herein will be referred to as per their array in the Original Suit before the Trial Court.

2. One Perumal Pillai and one Sulochanammal are husband and wife. The couple have three sons and two daughters. Ramadass, Krishna Pillai and Parthasarathy are the sons, and Saraswathy and Aandalammal



are the daughters. In this case, plaintiffs 1 to 7 are claiming through said Ramadass, plaintiffs 8 to 10 are claiming through said Krishna Pillai and

the 11th plaintiff is the said Parthasarathy. The defendants are claiming through said Saraswathy. Aandalammal died after her marriage without any issues.

3. The case of the plaintiffs is that the Suit 'A' Schedule Property originally belonged to Sulochana Ammal and the Suit 'B' Schedule Property belonged to Perumal Pillai, who are the parents of the 11th plaintiff and grandparents of plaintiffs 1 to 10. After their demise, the plaintiffs are jointly entitled to $\frac{3}{4}$ share and the defendants are jointly entitled to $\frac{1}{4}$ share in the Suit Properties. While so, the defendants attempted to alienate the suit properties by way of two Release Deeds dated December 15, 2003 and July 08, 2005 and one Settlement Deed dated May 16, 2008. Hence, the plaintiffs filed the Suit for partition; separate possession; and for declaration that the Release Deeds and Settlement Deed are null and void.

4. In the Original Suit, the 2nd Defendant filed an Interlocutory Application under Order VII Rule 11 of 'the Code of Civil Procedure,



1908' ('CPC' for short) in I.A.No.1 of 2019 seeking to reject the plaint on the ground that the Suit was under-valued and Court Fee paid was incorrect and also on the ground that the Suit is barred by limitation.

According to the 2nd defendant, the plaintiffs conveniently valued the Suit under Section 25 (d) of 'the Tamil Nadu Court-Fees and Suits Valuation Act, 1955' ('TNCF Act' for short), while they ought to have valued the Suit under Section 40 of the TNCF Act. Hence, the relief claimed by the plaintiffs have been under-valued and they have not paid proper Court Fee. Further, the Suit is filed in the year 2018 while the declaration sought in respect of documents dating to 2003, 2005 and 2008. Hence, the Suit is barred by limitation.

5.The Trial Court after hearing both sides, dismissed the Interlocutory Application. The Trial Court reasoned out that the plaintiffs are not parties to the documents sought to be declared as null and void and hence, the Court Fee paid under Section 25 (d) of TNCF Act is correct. Further, the Trial Court observed that according to the plaintiffs, they came to know about the existence of the documents only on February 15, 2017, that too after obtaining Encumbrance Certificate and the Suit has been filed within 3 years from the date of knowledge and hence, the Suit



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has been filed within the limitation period.

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6. Feeling aggrieved by the Dismissal Order, the 2nd defendant has preferred this Civil Revision Petition.

7. Mr. S. Karthikeyan, learned Counsel appearing for the Revision Petitioner / 2nd defendant submits that the plaint does not disclose any cause of action. As regards the plaint prayers *qua* declaration of Release Deeds and Settlement Deed as null and void, the plaintiffs ought to have valued the relief under Section 40 of the TNCF Act, instead of Section 25 (d). The documents are registered documents dating to 2003, 2005 and 2008 and the plaintiffs are well aware of the same from the very beginning and hence the claim of the plaintiffs is barred by limitation. The Trial Court failed to consider the said facts and erroneously dismissed the Interlocutory Application. Accordingly, he prays to allow the Civil Revision Petition, set aside the Dismissal Order of the Trial Court and reject the plaint.

8. Per contra, Mr. D. Rajagopal, learned Counsel appearing for the Respondents 1 to 5, 6, 7, 9 & 10 contends that in an Application under Order VII Rule 11 of the CPC, the Court shall look into the plaint and

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plaint documents alone; that the defendants' written statement or their defense must not be taken into consideration; that the plaintiffs filed the Suit within 3 years from the date of knowledge about the alleged Release Deeds and Settlement Deed which is dated February 15, 2017; that the Suit has been filed in the year 2017, that is to say well within 3 years from the date of knowledge. Further, the plaintiffs are not parties to the said documents and hence the said documents would not bind the plaintiffs. Hence, the valuation under Section 25 (d) of the TNCF Act is correct. He further submits that these questions of limitation and Court Fee are mixed questions of law and facts and can be gone through only at the time of trial and these cannot be a ground for rejection of plaint. After considering the entire facts and circumstances of the case, the Trial Court rightly dismissed the Interlocutory Application and declined to reject the plaint in which there is no irregularity or illegality. Therefore, he prays to dismiss this Civil Revision Petition.

9.This Court has considered both sides' submissions and perused the plaint and plaint averments.

10.It is settled law that while deciding an Order VII Rule 11 Application, the Court should look only into the plaint and the plaint

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documents. At that stage, the Defendants have no *locus standi* to adduce evidence to reject the plaint. In other words, the plaint cannot be rejected based on the material supplied by the Defendants. In this case, the relationship between the plaintiffs and the defendants are admitted. The cause of action is set out in Paragraph No.14. Whether the cause of action set out in the plaint is true or not can be gone into only at the time of trial. Further, as rightly contended by the learned Counsel appearing for the respondents 1 to 7, 9 and 10 / plaintiffs, the plaintiffs are not parties to the Release Deeds and the Settlement Deed and hence, the plaintiffs need not seek for cancellation of those documents. Further, the plaintiffs have averred that they came to know about the existence of the said documents only on February 15, 2017. The Suit has been filed in 2017 and numbered in 2018. Hence, the Suit has been filed within 3 years from the date of knowledge of those documents. Whether the said averment is true or not and consequently, whether the Suit is barred by limitation or not is again a matter for trial and cannot be decided in an Order VII Rule 11 Application.

Considering the above, this Court is of the view that the 2nd defendant has not made out a case under Order VII Rule 11 of the CPC.

11.The Trial Court rightly appreciated the facts and circumstances

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of the case and dismissed the Order VII Rule 11 Application. This Court does not find any irregularity or illegality in the Order passed by the Trial Court and there is no warrant to interfere with it.

12.In the Result, this Civil Revision Petition is dismissed. Considering the facts and circumstances of the case, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

15/12/2025

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

The Additional District Judge,
Kancheepuram District at Chengalpattu.



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R. SAKTHIVEL, J.

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