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C.R.P.(PD).No. 649 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.02.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD).No. 649 of 2025

&

C.M.P.No. 3721 of 2025

S.V.Ravichandran

...Petitioner

Vs.

R.Raja

...Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order passed in IA.No.2 of 2023 dated 24.09.2024 in OS.No.243 of 2017 passed by the District Munsif Court, Sriperumbudur.

For Petitioner : Mr. P.K.Ganesh



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ORDER

Challenging the dismissal of his application for rejecting the plaint filed in I.A.No.2 of 2023 in O.S.No.243 of 2017 on the file of the District Munsif, Sriperumbudur, the 2nd defendant has preferred the above civil revision petition. The parties are referred to in the same array as before the Trial Court. The 1st defendant is one Ravi.

2. The respondent / plaintiff had filed the suit O.S.No.243 of 2017 on the file of the District Munsif, Sriperumbudur seeking the relief of declaration to declare the registered sale deed dated 13.12.2005 executed by the 1st defendant in favour of the 2nd defendant as null and void and not binding on the plaintiff and for permanent injunction restraining the 2nd defendant from in any manner alienating or encumbering the suit property.

3. The plaintiff's contention is that the suit property belonged to



one Ponnai, who had died intestate leaving behind him surviving his sons, Munusamy, Ramalingam, Rangiah and Subramani, daughter Sakunthala. His wife Varadi had also passed away. Therefore, the property devolved on his children.

4. After his demise, his children jointly executed a registered power of attorney dated 15.09.1992 in favour of the 1st defendant to manage and sell the suit property. One of his son's Ramalingam had passed away on 19.04.2002. After his death, the 1st defendant had executed a registered sale deed dated 23.12.2005 in favour of the 2nd defendant in respect of the suit property.

5. The contention of the plaintiff is that the sale deed has been executed after the death of one of the Principals as a result of which, the power had become null and void. The plaintiff would also submit that he come to know about the above sale only on 20.08.2017, immediately, the plaintiff has come forward with the suit in question.



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6. The 2nd defendant on entering appearance in the above matter, has come forward with the aforesaid application, namely, I.A.No.2 of 2023 seeking to reject the plaint on the grounds of lack of cause of action, undervaluation and limitation. The 2nd defendant would submit that the power had been executed on 03.09.1991 and 15.09.1992 in favour of the 1st defendant.

7. The 2nd defendant would aver that at the time of the execution of the power of attorney dated 03.09.1991 and 15.09.1992, the plaintiff and his sister were minors. The plaintiff's father had died intestate on 09.04.2022 and on his demise the 1st defendant as a power of attorney had executed a sale deed dated 23.12.2005. The 2nd defendant would submit that the suit ought to have been filed within 3 years of the plaintiff attaining majority. The plaintiff had attained majority in the year 2003 and the suit was filed in the year 2017. Therefore, the same is barred by limitation.



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8. The 2nd defendant would contend that the allegations that the plaintiff had come to know that the sale deed executed in 2005 only on 20.08.2017 is absolutely false and does not disclose cause of action. Therefore, they sought for rejection of the plaint.

9. The allegations were stoutly denied by the plaintiff, who would submit that the legal heirs of Ponnan, the original owner of the suit property had jointly executed power of attorney dated 03.09.1991 and 15.09.1991 in favour of the 1st defendant. The suit property is the ancestral property of the paternal grand father of the plaintiff and the plaintiff had got a right to the property by birth. The power of attorney executed by his father Ramalingam is not binding on him as he was minor at the time of the execution of the power of attorney.

10. That apart, one of the principals had passed away. Therefore, the power of attorney based upon which the sale deed had been



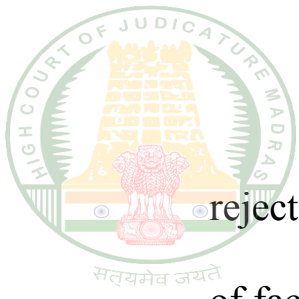
executed is null and void document. Immediately, coming to know about the sale deed the plaintiff has come forward with the suit.

Therefore, there is no question of the suit lacking any cause of action or that it is barred by limitation. He sought for the dismissal of the application.

11. The learned Trial Judge after hearing the objections proceeded to dismiss the application. Aggrieved by which the 2nd defendant is the petitioner before this Court.

12. Heard the learned counsel for the petitioner and perused the records.

13. The Courts have time and again held that while considering the petition for rejecting the plaint the Court should take into consideration the plaint and the documents filed along with the plaint. If the plaint makes out a cause of action then the plaint cannot be rejected. That apart, if the ground on which the plaint is sought to be



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rejected is one of limitation, then the limitation being a mixed question of facts and law, the Courts should be reluctant to reject the plaint.

14. A mere perusal of the application filed for rejecting the plaint and the plaint itself would clearly indicate that the plaintiff has made out a cause of action. The issue of limitation has to be considered on the basis of the document that would be submitted on either side. Therefore, the order passed by the learned District Munsif, Sriperumbudur, in dismissing the application in I.A.No.2 of 2023 in O.S.No.243 of 2017, is very much in order and does not require any re-consideration.

15. Accordingly, the Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

19.02.2025

Index : Yes/No
Internet : Yes/No



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To

The District Munsif Court,
Sriperumbudur.



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P.T. ASHA, J,

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