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C.R.P.Nos.4286 & 4285 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2025

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.Nos.4286 & 4285 of 2022

Lalitha

.. Petitioner in both CRPs.

Versus

J.Sathiyannarayanan

.. Respondent in both CRPs.

Common Prayer: Civil Revision Petitions filed under Article 227 of Constitution of India against the fair and decreetal order dated 16.11.2022 passed in I.A.Nos.1 and 2 of 2022 in O.S.No.182 of 2022 on the file of the District Munsif, Gudiyattam

For Petitioner : Mr.R.Selvakumar,
for Mr.M.Marudhachalam

For Respondent : Mr.S.Bala Ganesh
for Mr.T.M.Hariharan

ORDER

The plaintiff is the civil revision petitioner. The plaintiff has filed a suit in O.S.No.182 of 2012 for the following reliefs:

“a. Declaring that the registered sale deed dated 11.05.2011 created by the defendant in respect of the common undivided shares of Nagarathinammal the Mother of the plaintiff is illegal, null and void;

b. granting permanent injunction restraining the defendant, his power holders, legal heirs, agents and servants from in any manner interfering with the



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peaceful possession and enjoyment of the plaintiff in the schedule mentioned suit properties until the common undivided 102/162 shares of Thulasi Chetty purchased by the defendant is worked out in partition suit filed by him;

c. directing the defendant to pay the costs of this suit to the plaintiff; and

d. to grant such other relief or reliefs as to this Hon'ble Court they think fit and proper under the circumstances of the case.”

2. For the sake of convenience, the parties will be referred to as per their ranks in the suit.

3. The case of the plaintiff is that the suit schedule mentioned property was purchased by one Venugopal Chetty, her father. On the death of Venugopal Chetty, the plaintiff and her mother, Nagarathinammal started enjoying the same. She pleaded that on 06.08.2012, the defendant attempted to interfere with her possession and enjoyment of the suit schedule mentioned property. She added that a suit in O.S.No.91 of 1996 had been filed by the plaintiff and her mother against one Thulasi Chetty, the brother of the plaintiff's father.

4. In turn, Thulasi Chetty had presented another suit in O.S.No.276 of 1997 on the file of the District Munsif at Gudiyattam,



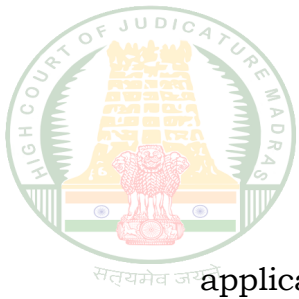
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seeking partition and separate possession against the plaintiff and her mother, Nagarathinammal, and one Rajammal, the mother of Venugopal Chetty. The plea of Thulasi Chetty was that Venugopal Chetty had purchased the suit schedule mentioned property from and out of the income generated by the joint family, consisting of Venugopal Chetty, Thulasi Chetty and another brother, Manavalan, and their father, Govinda Chetty.

5. The plaintiff pointed out that the suit filed by her was dismissed and the suit filed by Thulasi Chetty was decreed. Appeals preferred therefrom in A.S.No.15 of 2007 and A.S.No.19 of 2007 to the file of Subordinate Judge also ended in dismissal. The plaintiff urged that the second appeals preferred to this court in SA.No.1056 of 2009 and S.A.No.1055 of 2009 were also dismissed. In otherwords, the relief of partition sought by Thulasi Chetty and the relief of declaration and permanent injunction sought by the plaintiff herein had attained finality.

6. The plaintiff pleaded that in order to convert the preliminary decree into an executable final decree, an application was filed by Thulasi Chetty in I.A.No.91 of 2011 in O.S.No.276 of 1997 on the file of the District Munsif, Gudiyattam. After having presented the final decree



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application, the said Thulasi Chetty had alienated the property in favour of the defendant. Hence, the suit for the aforesaid reliefs.

7. The defendant entered appearance and filed a detailed written statement. He admitted that he had purchased 102/162 common shares in the suit property from Nagarathinammal and from the legal heirs of Thulasi Chetty. He pleaded that the plaintiff was never in possession of the property and that she had settled in the neighbouring State of Andhra Pradesh. He pleaded that as the building was old, dilapidated and damaged due to natural causes, he pulled it down. On these pleas, he sought for dismissal of the suit.

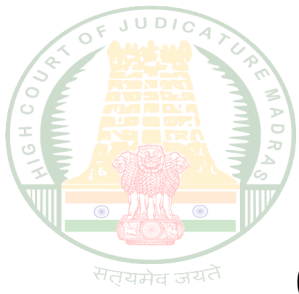
8. The parties went for trial and the evidence has been concluded.

9. When the suit was posted for arguments, the plaintiff took out two applications, namely,

(i) Requesting the court to frame the following as additional issue:

“Whether the defendant the alleged purchaser of common undivided shares of Undivided Hindu Joint Family suit property is not entitled to be in joint possession of the suit property along with the coparcener, the plaintiff as per the Hindu Law.”

This application was received as I.A.No.2 of 2022.



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(ii) To let in additional evidence on the basis of the issue sought to be framed.

This application was received as I.A.No.1 of 2022.

10. Those applications were opposed by the defendant as barred by time.

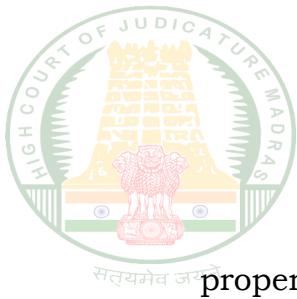
11. Learned District Munsif took up the applications and dismissed the same as the reason stated by the plaintiff was not sufficient to frame the additional issue. Aggrieved by the same, the present civil revision petitions.

12. I heard Mr.R.Selvakumar representing Mr.M.Marudhachalam for the civil revision petitioner and Mr.S.Bala Ganesh representing Mr.T.M.Hariharan for the respondent.

13. The learned counsel reiterated the contentions they made before the trial court.

14. I have carefully considered the submissions of both counsels and have gone through the records.

15. The issue sought to be framed is a pure question of law and not a matter which requires the court to frame an additional issue. A material proposition of law must be affirmed by one party and denied by the other. In this case, the purchaser has admittedly purchased the



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property *pendente lite*. Hence, he is bound by the result of the previous litigation. In any event, in terms of Order XIV, it is always open to the court to frame an additional issue and answer the same, if it so desires, at the time of pronouncement of the judgment. It is the discretion of the learned Trial Judge whether he wants to frame the issue or not. The issue depends on the averments that had been made by the parties in the pleadings. In case, the court finds such an issue to be necessary, it is entirely up to the learned Trial Judge to frame and answer the issue. The plaintiff is not entitled to demand that the court should frame such an issue in the facts and circumstances of the case.

16. Since I am not inclined to accept the application of the plaintiff to frame an additional issue, it is unnecessary to consider the application filed to let in additional evidence on the basis of the issue sought to be framed.

17. With the above observations, the civil revision petitions are dismissed. No costs.

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Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no

To

1.The District Munsif, Gudiyattam



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V.LAKSHMINARAYANAN, J.

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