



C.R.P.(PD)(MD).No.450 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.450 of 2022

and

C.M.P.(MD)No.1988 & 7853 of 2022

1.Arumai Packiam Manuel Charitable Trust,
Rep by its Trsutees,
Agasteeswaram & Post,
Agasteeswaram Village,
Agasteeswaram Taluk,
Kanyakumari District.

2.N.Isaac Daniel

3.N.Bright Livingston

... Petitioners

Vs.

1.N.Justin

2.M.Rajasekaran

3.K.Xavier

4.C.Arputharajan

5.J.Titus Livingston

6.Catherine Selvabai

7.S.Chandrasekaran

... Respondents

PRAYER: Civil Revision Petition - filed under Article 227 of Constitution of India, to call for the records relating to the fair and decretal order dated 11.01.2022 passed in I.A.No.10 of 2021 in O.S.No.223 of 2012 on the file of the II Additional Sub Court, Nagercoil and to set aside the same.



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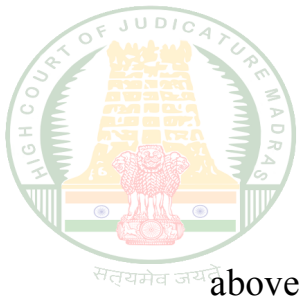
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For Petitioner : Mr.D.Saravanan
For Respondents : Mr.R.Gandhi
Senior Counsel
for Mr.R.Ramanujam

ORDER

This Civil Revision Petition is filed challenging the order dated 11.01.2022 passed in I.A.No.10 of 2021 in O.S.No.223 of 2012 on the file of the II Additional Sub Court, Nagercoil.

2.The petitioners are the plaintiffs in O.S.No.223 of 2012 for declaration of first plaintiff's title over the suit property and for permanent injunction restraining the defendants 5 to 7 from making any alteration or alienation or trespass into the suit property. After trial, at the time of argument, the petitioners came to know the mistake committed by the petitioners as if the fifth and sixth defendants obtained sale deed from one Justin on 02.06.2000 and thereafter, the power of attorney deed was executed in favour of one Albert in respect of the suit schedule property on 17.04.2002; subsequently, the power of attorney sold the property on 24.02.2002 to one Catherine Selvabai; hence, it is necessary for the plaintiffs to challenge the



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above said sale deed and subsequent power of attorney in order to protect the interest of the first plaintiff's trust property. Thereby, the plaintiffs filed applications to re-open the suit and to amend the plaint under Order VI Rule 17 and Section 151 of CPC. Both the applications were dismissed. Challenging the same, this Civil Revision Petition is filed.

3.The learned counsel for the petitioners submitted that by way of this amendment, no serious prejudice will be caused to the respondents and it will not change the cause of action of the suit. Hence, he prayed for appropriate orders.

4.The learned counsel for the respondents submits that initially the prayer in the suit is for declaration of the suit schedule property owned by the first plaintiff Trust. The petitioners having specifically averred in para Nos. 12, 13 and 14 of the plaint, with regard to the sale deeds in respect of the suit schedule property, which are sought to be amended by way of present amendment petition, have not chosen to challenge the said deeds. Now after a period of nine years from the date of filing of the plaint, the petitioners seek to challenge the said sale deeds, which is not sustainable.



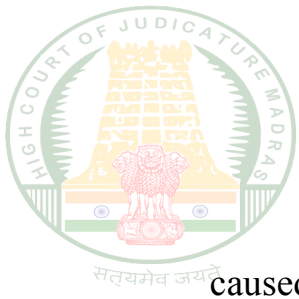
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5.Heard the rival submissions made on either side and perused the materials placed on record.

6.As per Article 58 of the Limitation Act, three years limitation period is there and that the period of limitation would be reckoned from the date on which the right to sue arose first. In the present case, the right to sue arose from the date of knowledge of the documents. Admittedly, in the plaint itself, the documents, which are now sought to be challenged by the plaintiffs, are referred by the plaintiffs. Hence, the limitation starts from the date of plaint viz., in the year 2012. However, the present amendment application is filed only in the year 2021 nearly after a lapse of 9 years. Thus, the action on the part of the petitioners/plaintiffs is clearly barred by the law of limitation. Further, the applications seeking amendment of plaint is sought after completion of arguments. The trial Court has rightly appreciated all these issues and dismissed the application filed by the petitioners and the same need not be interfered with.

7.Further, in respect of the amendment sought by the petitioners/plaintiffs with regard to payment of court fee, no prejudice will be



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caused to the respondents. Hence, this Court is inclined to interfere with the order of the trial Court with regard to payment of Court fee. Accordingly, the prayer sought by the petitioners/ plaintiffs with regard to amendment of Court fee is allowed and in respect of other declaratory reliefs is dismissed.

8.This Civil Revision Petition is dismissed on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

12.08.2025

NCC : Yes/No
Internet : Yes / No
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To

- 1.The Second Additional Sub Court, Nagercoil.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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