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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2025

CORAM

THE HON'BLE MR. JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD)No.766 of 2025

and

C.M.P(MD)No.4088 of 2025

R.Ganesan

...Petitioner/Petitioner/Plaintiff

Vs.

1.N.Sathishkumar

2.G.Muthukumar

3.P.Karthikeyan

4.A.Karthikeyan

...Respondents/Respondents/Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to pass an order to call for the records of fair and executable order dated 09-12-2024 passed in I.A.No.3 of 2024 in O.S.No.112 of 2018 on the file of Principal District Judge, Dindigul and to set aside the same by allowing this Revision Petition.

For Petitioner : Mr.S.Mahesh Babu

For Respondent : Mr.A.Arul Jenifer for R3

* * * * *



ORDER

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The plaintiff in O.S.No.112 of 2018, on the file of the Principal District Court, Dindigul, has filed the present revision petition, challenging the dismissal of his application for framing an additional issue with regard to validity of a power deed said to have been executed by him on 15.11.2011, in favour of the first defendant in the suit.

2.A perusal of the records reveal that the suit has been filed for the relief of declaration of title to declare that two sale deeds executed by the first defendant in favour of the defendants 3 and 4, on 13.08.2014, are null and void and further prayer for permanent injunction that his possession should not be disturbed.

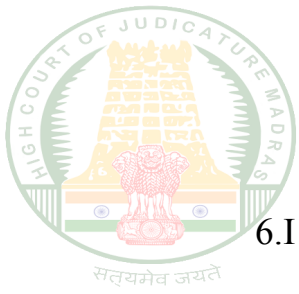
3.A perusal of the plaint averments further reveal that the plaintiff has disputed the power deed said to have been executed by him in favour of the first defendant on 15.11.2011. However, no issues were framed by the trial Court touching upon the validity of the said power deed. When the suit was posted in the argument stage, the plaintiff has filed the present application in I.A.No.3 of 2024, requesting the Court to frame the additional issues touching upon the validity of the power deed, dated 15.11.2011, which was used by the first



defendant to execute two sale deeds which are challenged in the suit. This application has been dismissed by the trial Court primarily on the ground that the plaintiff has already filed W.P.(MD)No.3223 of 2018, before the High Court seeking a mandamus as against the registration authorities to cancel the said sale deeds. In the said affidavit, the plaintiff has admitted about the execution of the power deed, dated 15.11.2011. The same has also been reflected in the order passed by the High Court in W.P(MD)No.3223 of 2018, on 16.02.2018, granting liberty to the plaintiff to approach the civil Court.

4. According to the learned Counsel appearing for the revision petitioner, when appropriate averments have been made in the plaint challenging the validity of the power deed, dated 15.11.2011, the Court ought to have framed issues touching upon the validity of the power deed. Therefore, the order passed by the trial Court is correct.

5. Per contra, the learned Counsel appearing for the respondents herein had contended that the execution of the power deed has been admitted by the plaintiff in his affidavit filed in W.P.(MD)No.3223 of 2018, before this Court and the same is also recorded by this Court in its order. In such circumstances, the plaintiff cannot be permitted to challenge the validity of the said power deed at this point of time.



6.I have considered the submissions made on either side and perused the materials available on record.

7.A suit has been filed only challenging two sale deeds executed by the first defendant in favour of the defendants 3 and 4, based upon the power deed dated 15.11.2011. Though the plaintiff has averred that the power deed, dated 15.11.2011, is a forged document, no prayer was sought for by the plaintiff at the time of filing of the suit. That apart, the plaintiff has admitted the execution of the said power deed in W.P(MD)No.3228 of 2018. In such circumstances, when the suit is at argument stage, the question of framing of additional issues touching upon the validity of the power deed does not arise.

8.Therefore, the trial Court has rightly rejected the said application. There are no merits in the revision petition. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

26.03.2025

Internet: Yes/No
Index: Yes/No
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R.VIJAYAKUMAR, J.

RJR

To

The learned Principal District Judge, Dindigul.

Copy to:-

The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.

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