



C.R..P.(PD)(MD).No.681 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)No.681 of 2024

and

C.M.P(MD) No.3415 of 2024

Gandhi

... Petitioner/Petitioner
Plaintiff

Vs.

1. Raman

2. Ramakrishnan

... Respondents 1 and 2/
Respondents 1 and 2/
Defendants

3. Murasoli

... 3rd Respondent/
3rd Respondent/
Proposed Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to call for records relating to the impugned fair and decreetal order dated 30.08.2022 made in I.A.No.1 of 2022 in O.S.No.48 of 2019 on the file of the learned District Munsif, Devakottai and set aside the same.

For Petitioner : Mr.S.Manikandan

For R1 : No appearance



WEB COPY



C.R..P.(PD)(MD).No.681 of 2024

For R2 : Mr.R.Balakrishnan

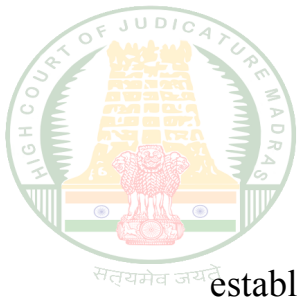
For R3 : Mrs.M.Rajeswari

ORDER

The plaintiff in O.S.No.48 of 2019 on the file of the District Munsif Court, Devakottai, has filed the present Civil Revision Petition challenging the dismissal of his application to implead a third party to the suit.

2. A perusal of the records reveal that the suit has been filed for the relief of declaration of title and for a further declaration that the sale deed executed by the first defendant in favour of the second defendant on 01.03.2010 is null and void and not binding upon the plaintiff.

3. Pending suit, the plaintiff has filed I.A.No.1 of 2022 seeking to implead a third party on the ground that the second defendant has sold the property to the said third party on 09.12.2013. According to the plaintiff, he came to know about the said sale only when he had applied for encumbrance Certificate on 20.12.2021. The said impleading application has been dismissed by the trial Court on the ground that the plaintiff has not



C.R..P.(PD)(MD).No.681 of 2024

WEB COPY

established how the proposed party is a necessary party to the suit.

Challenging the same, the present Civil Revision Petition has been filed.

4. According to the learned counsel appearing for the revision petitioner/plaintiff, the second defendant has filed his written statement in April 2019. In the said written statement there is no reference to the fact that he had already sold the suit schedule property to the proposed party on 09.12.2013. Therefore, he had knowledge about the sale made by the second defendant to the proposed party only on 20.12.2021. Hence, there is no delay on the part of the plaintiff in filing the impleading application.

5. Per contra, the learned counsel appearing for the second respondent/ second defendant had contended that the suit schedule properties have been sold by the second defendant in favour of the proposed party way back in December 2013. The plaintiff had applied for an encumbrance Certificate prior to filing of the suit. Therefore, the plaintiff should have been aware of the fact that the second defendant has sold the property to the proposed party. Therefore, the present application is clearly barred by limitation.



C.R..P.(PD)(MD).No.681 of 2024

WEB COPY

6. Heard both sides and perused the materials available on record.

7. The present application has been filed seeking to implead a third party to the suit for declaration of title. According to the plaintiff, the second defendant has sold the suit schedule properties to the proposed party in December 2013 but he had knowledge about the same only on 20.12.2021. It could also be seen from the records that though the second defendant has filed his written statement in April 2019, in the said written statement there is no reference about the sale made by the second defendant to the proposed party. In such circumstances, the application filed to implead the proposed party cannot be considered to be barred by limitation. As per Article 59 of the Limitation Act, in case, if the party wishes to set aside a document, he has to do so, within a period of three years from the date of knowledge. Whether the plaintiff had knowledge in the year 2019 itself or only in the year 2021 has to be decided only during trial. Therefore, the application cannot be dismissed on the ground of limitation. The defendants are at liberty to raise their plea of limitation during trial.



C.R..P.(PD)(MD).No.681 of 2024

WEB COPY

8. With the above said observations, the order impugned in the Revision Petition is set aside and this Civil Revision Petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

15.04.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
ebsi

To

1. The District Munsif Court,
Devakottai.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R..P.(PD)(MD).No.681 of 2024

R.VIJAYAKUMAR,J.

ebsi

C.R.P(PD)(MD)No.681 of 2024

15.04.2025