



C.R..P.(PD)(MD).No.1094 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)No.1094 of 2025

and

C.M.P(MD) No.5957 of 2025

A.Kumar

... Petitioner/4th Defendant

Vs.

1. Mary Elizabeth Rani

... 1st Respondent/Plaintiff

2. Chinna Rani Jesintha

3. Praveen Kumar

4. Pio Roshon Kumar

... Respondents 2 to 4/
Defendants 1 to 3

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to strike off the plaint in O.S.No.85 of 2022 on the file of the Sub Court, Tuticorin, and allow this Revision Petition.

For Petitioner : Ms.K.Shwathini



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ORDER

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The fourth defendant in O.S.No.85 of 2022 on the file of the Sub Court, Tuticorin, has filed the present Civil Revision Petition under Article 227 of Constitution of India, to strike off the plaint on the ground that it is an abuse of process of Court.

2. A perusal of the plaint averments reveal that the plaintiff and the first defendant are sisters. The second and third defendants are the sons of the first defendant. The fourth defendant is a purchaser from the first defendant.

3. The father of the plaintiff and the first defendant, namely, one Siluvai Pitchai Parnanthu has executed two separate settlement deeds on 21.12.1964. In one of the settlement deeds, door No.88-A has been settled in favour of the plaintiff. In the other settlement deed door No. 88-B has been settled in favour of the first defendant. Both the plaintiff as well as the first defendant have been given only life interest under the said documents.



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4. The present suit has been filed by the plaintiff seeking to declare that the sale deed executed by the first defendant in favour of the fourth defendant on 07.05.2003 is a fraudulent one and declared to be null and void. According to the learned counsel appearing for the revision petitioner/fourth defendant, this settlement deed was executed by the first defendant only with regard to the property allotted to her namely, door No.88-B. Therefore, the plaintiff does not have any *locus standi* to challenge the same. In fact the sons of the first defendant who are arrayed as defendants 2 and 3 have not chosen to challenge the same. With the said averments, the present Civil Revision Petition has been filed to strike off the plaint.

5. A perusal of the plaint further reveals that the plaintiff has sought for the prayer for permanent injunction restraining the defendants from interfering with the first schedule property, which was allotted to her in partition. She has also prayed for permanent injunction that the common wall should not be disturbed by the defendants. The plaintiff has further prayed for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) as damages for causing damage to the north south wall on the western side of the first schedule property. Except the first prayer, all other prayers are relating to the property



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that was allotted to the plaintiff, in the settlement deed dated 21.12.1964. In such circumstances, it is clear that the plaintiff can very well maintain these prayers.

6. The Hon'ble Supreme Court in the judgment reported in **(2019) 7 SCC 158 (Madhav Prasad Aggarwal and another Vs.Axis Bank Limited and another)** in paragraph No.12 has held as follows:

“12. Indubitably, the plaint can and must be rejected in exercise of powers under Order 7 Rule 11(d) of CPC on account of non-compliance of mandatory requirements or being replete with any institutional deficiency at the time of presentation of the plaint, ascribable to clauses (a) to (f) of Rule 11 of Order 7 of CPC. In other words, the plaint as presented must proceed as a whole or can be rejected as a whole but not in part. In that sense, the relief claimed by respondent No.1 in the notice of motion(s) which commended to the High Court, is clearly a jurisdictional error. The fact that one or some of the reliefs claimed against respondent No.1 in the suit concerned is barred by Section 34 of the



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2002 Act or otherwise, such objection can be raised by invoking other remedies including under Order 6 Rule 16 of CPC at the appropriate stage. That can be considered by the Court on its own merits and in accordance with law. Although, the High Court has examined those matters in the impugned judgment the same, in our opinion, should stand effaced and we order accordingly.”

7. In view of the judgement of the Hon'ble Supreme Court it is clear that either the plaint has to be rejected as a whole or the defendant has to face the trial. Merely because, the plaintiff does not have any *locus standi* to file a suit with regard to the first prayer, the plaint cannot be rejected on the ground that it is an abuse of process of Court. It is always open to the revision petitioner to raise an objection with regard to the *locus standi* of the plaintiff or file appropriate application under Order 6 Rule 16 of C.P.C., at the appropriate stage of the suit.



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8. In view of the above said facts, this Civil Revision Petition stands disposed of. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Sub Court,
Tuticorin.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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