



C.R.P.(PD)(MD).No.1396 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.1396 of 2021
and
C.M.P.(MD)No.7893 of 2021

M.Selvam

... Petitioner

Vs.

1.D.Ravisankar
2.P.S.Gomathiammal (died)
3.K.D.Thilagam
4.S.V.Chandrasekara Raja
5.A.Sumathi
6.A.Vasanthi

... Respondents

PRAYER: Civil Revision Petition - filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed by the District Munsif Court, Sivagiri in I.A.No.1 of 2021 in O.S.No.173 of 2012 dated 19.02.2021.

For Petitioner : Mr.A.Devaki



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ORDER

This Civil Revision Petition is filed challenging the fair and decreetal order passed by the District Munsif Court, Sivagiri in I.A.No.1 of 2021 in O.S.No.173 of 2012 dated 19.02.2021.

2.The petitioner is the plaintiff in a suit in O.S.No.173 of 2012 filed for permanent injunction as against the respondents. The petitioner's father entered into a sale agreement with the second defendant on 22.06.1986 regarding the suit property and the petitioner's father was handed over the possession of the suit property on the date of agreement itself. Thereafter, the father of the petitioner died and the petitioner was in possession and enjoyment of the property. Subsequently, the first defendant interfered with the petitioner's property. Thereby, suit for permanent injunction was filed in the year 2012 as against the defendants by the petitioner. Later, the petitioner realized that the sale agreement dated 22.06.1986 was not enforced. Thereby, he filed an application in I.A.No.1 of 2021 for amending the prayer for suit for specific performance instead of injunction. The said application was



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dismissed. Challenging the same, the present Civil Revision Petition is filed.

3.The learned counsel for the petitioner would submit that admittedly, the sale agreement was entered into between the petitioner's father and the second defendant in the year 1986. The same was not enforced either by the petitioner's father or by the petitioner and inadvertently, the petitioner at the time of filing the suit, made a prayer for injunction instead of specific performance. Thereby, he filed an application seeking to amend the prayer. However, the same was dismissed.

4.Though the revision is filed in the year 2021, till date steps were not taken by the petitioner to serve on the respondents. However, considering the pendency of this petition, this Court is inclined to dispose of this petition based on the available records.

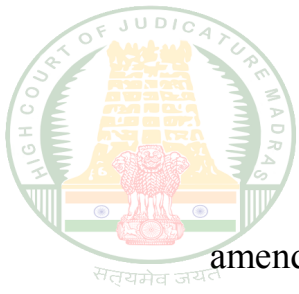
5.The fact in the present case is not in dispute. Admittedly, the petitioner/plaintiff filed a suit for permanent injunction restraining the



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defendants from interfering with the possession and enjoyment of the property. In the plaint, it is alleged that the second defendant, namely, Gomathiammal entered into a sale agreement with the petitioner's father on 22.06.1986 by receiving a sum of Rs.10,000/- as advance amount and allowed the petitioner's father to enjoy the property. Thereafter, the defendants received the entire sale consideration and the first defendant stood as a witness for receipt of the said amount. Even after the period mentioned in the sale agreement, the second defendant did not execute the sale deed. In the meanwhile, the father of the petitioner died in the year 2005 leaving behind the petitioner and his brother as legal heirs. When they are enjoying the property and paying taxes to the revenue department in their names and the first defendant interfered with the possession of the property. Thereby, the petitioner filed a suit for injunction.

6. During the pendency of the suit, the petitioner has not taken steps to serve the second defendant. Hence, the suit was dismissed for default in respect of the second defendant. Thereafter, the petitioner filed I.A.No.1 of 2021 under Order 6 Rule 17, 18 r/w Section 151 of CPC to



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amend the prayer. The said application was dismissed on the simple ground that it is barred by limitation.

7. Admittedly, the alleged sale agreement was entered between the petitioner's father and the second defendant in the year 1986. The suit was filed in the year 2012. The amendment was sought in the year 2021. Article 53 of the Limitation Act prescribes that the period of limitation starts from the cause action mentioned in the sale agreement. No action was taken by the petitioner prior to 2021 to amend the prayer. After a lapse of two decade, the relief sought by the petitioner to amend the prayer for specific performance is impermissible one and the issue was rightly appreciated by the trial Court and the same need not interfered.

8. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

18.06.2025

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

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



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M.DHANDAPANI,J.

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