



C.R.P(MD)No.2053 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

**Reserved on : 29.10.2024
Pronounced on : 08.04.2025**

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

**C.R.P(MD)No.2053 of 2024
and
W.M.P(MD)No.11645 of 2024**

1.Karupayee

2.Chellathayee

3.Kalaselvi

4.Thamarai Selvi

5.V.Velusamy

6.Chellathayee

7.Ponnukodi

8.Udaiyammal

... Petitioners /
Defendants 1 to 8

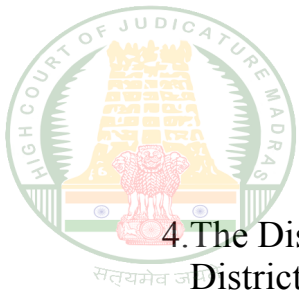
Vs.

1.Murugan

2.Chitra

... Respondents /
Plaintiffs 1 & 2

3.The Sub Registrar,
The Sub Registrar Office,
MelaNeelathanallur.



C.R.P(MD)No.2053 of 2024

4.The District Registrar,
District Registrar Office,
Tenkasi District.

... Respondents /
Defendants 9 & 10

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to allow the Civil Revision Petition and call for the records relating to the suit in O.S.No.265 of 2024 on the file of the Sub Court, Sankarankovil and strike off the same as illegal and not maintainable.

For Petitioners : Ms.H.Jasima Yasmin
for M/s.Ajmal Associates

For Respondents : Mr.J.David Ganesan for R.1

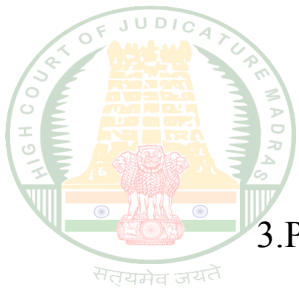
Mr.T.Indrachithu for R.2

Mr.K.Balasubramani
Special Government Pleader
for R.3 & R.4

ORDER

This Civil Revision Petition has been filed under Article 227 of the Constitution of India to strike off the suit in O.S.No.265 of 2024 on the file of the Sub Court, Sankarankovil.

2.The learned counsel appearing for the revision petitioners reiterated all the contentions set out in the memorandum of grounds of Civil Revision Petition and contended that the impugned plaint must be struck off as it is an abuse of legal process and constitutes relitigation.



C.R.P(MD)No.2053 of 2024

3.Per contra, the learned counsel for the plaintiffs submitted that the triable issues have been raised and that they should be resolved only in a regular trial and that the revision petitioners / contesting defendants cannot be allowed to short circuit the process. He relied on the decision reported in **(2019) 9 SCC 538 (Virudhunagar Hindu Nadargal Dharma Paribalana Sabai and Others Vs. Tuticorin Educational Society and Others)**.

4.I carefully considered the rival contentions and went through the materials on record.

5.The case of the plaintiffs is that the suit properties belonged to one Chinna Karuppasamy. He passed away on 09.12.2003 leaving behind his legal heirs, namely, Muthulakshmi, Sivaramathambi and Murugalakshmi. The said legal heirs executed a sale deed dated 18.03.2024 (Document No.789/2024) on the file of the Sub Registrar Office, Melaneelathanallur in favour of the plaintiffs. The plaintiffs are in possession and enjoyment of the suit property. While so, the defendants 5 to 8 had executed a release deed dated 14.05.2024 (Document No.1367/24) in favour of the defendants 1 to 4. The defendants 1 to 8 belong to a dominant community and are interfering with the possession and enjoyment of the plaintiffs who belong to Scheduled Caste community. Hence



C.R.P(MD)No.2053 of 2024

they are constrained to file the present suit seeking the relief of declaration and permanent injunction and to declare that Document No.1367/24 is not valid.

6.It is seen that Chinnakaruppan to whom the property originally belonged filed O.S.No.202 of 1985 on the file of the District Munsif Court, Sankarankoil. He sought the relief of declaration and permanent injunction in respect of the properties scheduled in the said suit. The suit was dismissed vide judgment and decree dated 10.02.1989. Aggrieved by the same, he filed A.S.No.23 of 1989 before the Sub Court, Tenkasi. The appeal was also dismissed on 21.03.1994. A reading of the said judgment shows that the properties scheduled in the said suit were the subject matter of O.S.No.156 of 1953. Chinnakaruppan had mortgaged the property in favour of a firm and defaulted in clearing the mortgage dues. The said mortgagee firm filed O.S.No. 156 of 1953 on the file of District Munsif Court, Kovilpatti and the suit was decreed. The decree holder filed E.P.No.32 of 1962 and the property was brought to auction. One Ramasamy Thevar purchased the property. The sale certificate was issued on 07.09.1962. Ramasamy Thevar filed E.A.No.902 of 1962 for delivery of possession and delivery was obtained on 13.01.1963. Even though the auction purchaser had obtained possession as early as on 13.01.1963, Chinnakaruppan filed the afore mentioned O.S.No.202 of 1985



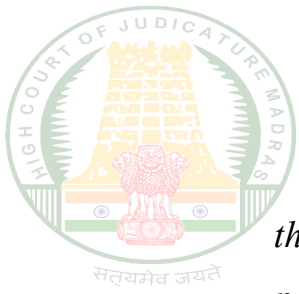
C.R.P(MD)No.2053 of 2024

against the auction purchaser Ramasamy Thevar and his two sons for declaration and injunction and was unsuccessful in his attempt.

7.The only question that calls for consideration is whether when Chinnakaruppan had lost the legal battle against auction purchaser / Ramasamy Thevar, the present plaintiffs who claim title under the legal heirs of Chinnakaruppan can maintain one more suit against the legal heirs of the auction purchaser.

8.The answer is clearly in the negative. The Hon'ble Supreme Court in the decision reported in **1998 (3) SCC 573 (K.K.Modi Vs K.N.Modi and Others)** held as follows:

“44. One of the examples cited as an abuse of the process of court is re-litigation. It is an abuse of the process of the court and contrary to justice and public policy for a party to re-litigate the same issue which has already been tried and decided earlier against him. The re-agitation may or may not be barred as res judicata. But if the same issue is sought to be re-agitated, it also amounts to an abuse of the process of court. A proceeding being filed for a collateral purpose, or a spurious claim being made in litigation may also in a given set of facts amount to an abuse of the process of the court. Frivolous or vexatious proceedings may also amount to an abuse of the process of court especially where

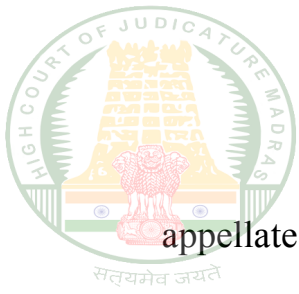


WEB COPY

the proceedings are absolutely groundless. The court then has the power to stop such proceedings summarily and prevent the time of the public and the court from being wasted. Undoubtedly, it is a matter of courts' discretion whether such proceedings should be stopped or not; and this discretion has to be exercised with circumspection. It is a jurisdiction which should be sparingly exercised and exercised only in special cases. The court should also be satisfied that there is no chance of the suit succeeding.”

9.I would have relegated the revision petitioners to go before the trial Court if a stand had been taken by the present plaintiffs that the present suit schedule is different from the earlier suit schedule. In the revision, the learned counsel for the revision petitioners has also filed written arguments. The facts set out therein are not at all controverted by filing any counter affidavit. The facts set out in the memorandum of grounds of civil revision petition as well as the affidavit filed in support of the stay petition and the written submissions have not at all been controverted by the present plaintiffs by filing any written submissions also.

10.I come to the definite conclusion that this third round of litigation is a gross abuse of the legal process. Chinnakaruppan suffered a decree as a defendant. He was also dispossessed through legal process. As a plaintiff also, he lost not once but twice; once before the trial Court and again before the



C.R.P(MD)No.2053 of 2024

appellate Court. The persons claiming under the legal heirs of Chinnakaruppan cannot be allowed to open one more front. Courts have better jobs to do. The impugned suit proceedings has struck of.

11.This Civil Revision Petition is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

08.04.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

- 1.The Sub Court, Sankarankovil.
- 2.The Sub Registrar, The Sub Registrar Office, MelaNeelathanallur.
- 3.The District Registrar, District Registrar Office, Tenkasi District.



WEB COPY



C.R.P(MD)No.2053 of 2024

G.R.SWAMINATHAN, J.

MGA

C.R.P(MD)No.2053 of 2024

08.04.2025