



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.1918 of 2021

and

C.M.P.(MD)No.9020 of 2021

Mallika

..Petitioner

Vs.

1.Nagalakhsmi

2.Thirugnanam

3.Selvaraj

4.Thenmozhi

5.Sonai @ Balasubramaniam

6.Meenakchisundaram

7,Krishnaveni

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the fair and decretal order dated 02.09.2021 made in I.A.No.3 of 2020 in O.S.No.47 of 2020 on the file of the Sub Judge, Manamadurai and allow the above Civil Revision Petition.

For Petitioner : Mr.D.Senthil

For R-1 : Died

For R-2 to R-5 : No Appearance



ORDER

This petition has been filed to set aside the fair and decreetal order dated 02.09.2021 made in I.A.No.3 of 2020 in O.S.No.47 of 2020 on the file of the Sub Judge, Manamadurai.

2. The petitioner filed a suit in O.S.No.47 of 2020 on the file of the Sub Court, Manamadurai seeking for partition and separate possession of the suit property. During the pendency of the suit, the petitioner filed an interlocutory application in I.A.No.3 of 2020 seeking amendment of the plaint to incorporate the relief of declaration as detailed in the proposed amendment. However, the trial Court dismissed the said application on 02.09.2021. Challenging the said dismissal order, the petitioner has filed the present Civil Revision Petition.

3. The learned counsel appearing for the petitioner would submit that the petitioner had originally filed the partition suit in O.S.No.74 of 2009 before the Sub Court, Sivagangai, which was later transferred and renumbered as O.S.No. 47 of 2020 on the file of the Sub Court, Manamadurai, due to change in pecuniary jurisdiction. Subsequently, the petitioner came to know that the first respondent / first defendant / mother-in-law had executed settlement deeds in favour of respondent Nos.2 to 7. Aggrieved by the said settlement, the petitioner filed the present amendment application seeking amendment of the plaint to incorporate the relief of declaration as detailed in the proposed amendment.



4. It is contended by the learned counsel appearing for the petitioner that the trial Court erred in dismissing the amendment application *in limine*, instead of permitting the parties to raise the issue of limitation at the stage of trial. In support of his contention, reliance was placed on the decisions of this Court in ***Katharmeera Rowther (died) and others vs. Indirani and others*** in ***C.R.P. (MD) No.950 of 2013***, dated 18.11.2019 and in the case of ***Tamilarasi and another vs. Udayakumar and another*** in ***C.R.P.(PD)(MD) No.9 of 2025***, dated 05.03.2025.

5. Though the names of respondent Nos.2 to 5 have been printed in the cause list, none appears on behalf of them.

6. Considering the pendency of the suit and in the absence of representation for the contesting respondents, this Court proceeds to dispose of the Civil Revision Petition based on the available records and submissions made.

7. The facts in the present case are not in dispute. The petitioner filed the partition suit in the year 2009, which was subsequently transferred and renumbered as O.S.No.47 of 2020 before the Sub Court, Manamadurai. The petitioner sought to amend the plaint by invoking Order VI Rule 17 and Section 151 CPC to include a prayer for declaration declaring the settlement deed



executed by the first respondent/mother-in-law in favour of other defendants as null and void. The trial Court dismissed the amendment application on the ground that it was barred by limitation. Admittedly, the settlement deeds were executed between the year 2008 and 2010, and the suit was filed in the year 2009. As per Article 59 of the Limitation Act, a suit for declaration must be filed within three years from the date of knowledge. Since the cause of action arose in the year 2009 and the amendment application was filed only in the year 2020, the application is clearly barred by limitation.

8. The decisions relied upon by the learned counsel for the petitioner are not applicable to the facts of the present case, wherein the trial Court has rightly considered and discussed the issue of limitation, which does not warrant any interference by this Court.

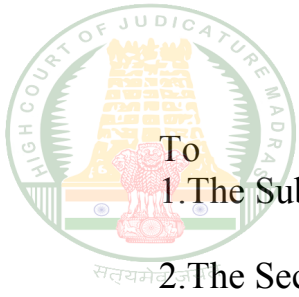
9. In the result, this Court finds no error in the order passed by the trial Court and accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

20.06.2025

Internet: Yes/No

Index: Yes/No

TSG



To

1.The Sub Judge, Manamadurai.

2.The Section Officer,

VR Section,

Madurai Bench of Madras High Court,
Madurai.



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C.R.P.(NPD).(MD)No.1918 of 2



M.DHANDAPANI, J.

TSG

C.R.P.(PD).(MD)No.1918 of 2021

20.06.2025