



C.R.P.(MD)No. 2095 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.2095 of 2021

and

C.M.P.(MD)No.11129 of 2021

A.Kannan

...Petitioner

Vs.

Muthammal

...Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the order dated 20.10.2021 passed in I.A.No. 299/2021 in O.S.No.112/2012 on the file of District Munsif Court Cum Judicial Magistrate Court, Peraiyur.

For Petitioner : Mr.V.N.Arjun
for Mr.N.Vallinayagam
For Respondent : Mr.G.Prabhu Rajadurai



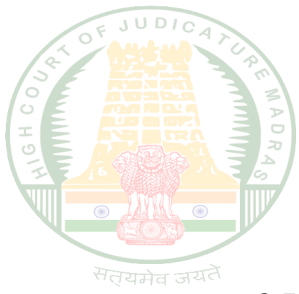
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ORDER

This petition has been filed seeking to set aside the order dated 20.10.2021 passed in I.A.No.299/2021 in O.S.No.112/2012, on the file of District Munsif Court Cum Judicial Magistrate Court, Peraiyur.

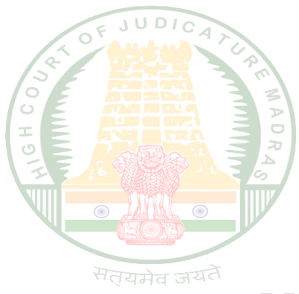
2.Learned Counsel for the petitioner would submit that the petitioner is the second defendant in O.S.No.112 of 2014. The respondent / plaintiff filed a suit for declaration to declare the sale deed dated 21.12.2009 as null and void and the petitioner filed a written statement on 29.06.2010, claiming title over the property. However, the suit was dismissed on merits, against which the respondent preferred appeal before the lower appellate court in A.S.No.58 of 2017 and the Lower Appellate Court remanded the suit to the Lower Court for fresh consideration, on the ground of giving one more opportunity to the respondent / plaintiff, so as to establish her case by producing relevant document before the trial Court. Thereafter, the respondent / plaintiff filed amendment petition under Order 6 Rule 17 of CPC in I.A.No.299 of 2021, for declaration declaring the plaintiff as the owner of the property. The said petition came to be allowed. Challenging the same, the present Civil Revision Petition has been filed.



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3.Learned Counsel for the petitioner would submit that such amendment petition is contrary to Article 58 of the limitation Act and the same cannot be entertained. A similar issue was considered before the Apex Court in the case of ***L.C.Hanumanthappa Vs. H.B.Shivakumar reported in 2015 (6) CTC 562***, has clearly held that any amendments made after three years contrary to Article 58 of the Constitution of India and is not a sustainable one and the doctrine of Relation Back is not applicable as amendment was ordered subject to limitation. Accordingly, he prays for allowing the Civil Revision Petition.

4.Per contra, learned Counsel for the respondent would submit that admittedly, the respondent filed a suit for declaration to declare the sale deed dated 21.12.2009 as null and void. He would fairly submit that the suit was initially dismissed on merits and subsequently, the lower appellate Court remanded the matter to enable the respondent to establish the title before the lower court. Thereafter, the respondent realised that the consequential relief was not sought in the original suit and thereby filed amendment petition in I.A.No. 299 of 2021, for declaration of the title and the same is not contrary to the Article 58 of the Constitution of India. The relief sought for is only a consequential relief.



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5. In support of his contention, the learned Counsel for the respondent relied on the decision of the Hon'ble Apex Court, in the case of ***Pankaja and another Vs. Yellappa (Dead) by L.Rs and others reported in (2004) 6 SCC 415***, wherein the Hon'ble Apex Court held that the Court's discretion as regard the amendment sought for depends on the facts and circumstances of the case and has to be exercised on a judicious evaluation thereof. Hence, the order of the passed by the trial Court, need not be interfered with and prays for dismissal of the Civil Revision Petition.

6. Heard the learned Counsel on either side.

7. The facts in the present case is not in dispute. Admittedly, the respondent / plaintiff filed a suit in O.S.No.112 of 2014, on the file of the District Munsif cum Judicial Magistrate, Peraiyur, with a prayer for declaration to declare the sale deed executed by the first defendant in favour of the second defendant as null and void and it is equally undisputed that the suit was dismissed, against which an appeal was preferred in A.S.No.58 of 2017 and the lower appellate Court remanded the matter vide order dated 20.01.2021, on the ground that the respondent / plaintiff was not able to establish the title before

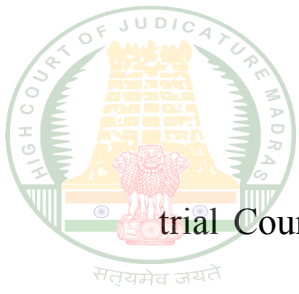


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the trial Court by producing evidence, However, the lower appellate court granted one more opportunity to the respondent / plaintiff to produce evidence before the trial Court. Thereafter, the respondent / plaintiff filed an amendment petition in I.A.No.299 of 2021. Admittedly, in the present case, the written statement was filed on 29.06.2010, whereas the amendment petition was filed only on 13.09.2021 and the same was allowed on 20.10.2021.

8.In this background, it is relevant to refer to the decision rendered by the Hon'ble Apex Court in the case of ***L.C.Hanumanthappa Vs. H.B.Shivakumar*** reported in **2015 (6) CTC 562**, wherein the Hon'ble Apex Court has clearly held that once the defendant files the written statement denying the title, the right to amendment accrues only within a period of three years. Filing amendment of pleadings after three years from the date of which the defendant files the written statement is contrary to Article 58 of the Limitation Act. This Court has also perused the decision relied upon by the respondent herein. However, the same is not applicable to the present case.

9.Accordingly, following the decision rendered by the Hon'ble Apex Court in the case of ***L.C.Hanumanthappa Vs. H.B.Shivakumar*** reported in **2015 (6) CTC 562**, this Civil Revision Petition is allowed and the order of the



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trial Court is set aside. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

24.06.2025

Internet: Yes/No

Index: Yes/No

MR



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To

1.The District Munsif Cum Judicial Magistrate,
Peraiyur.

2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

MR

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