

C.R.P(MD)No.2432 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **03.09.2025**

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

C.R.P(MD)No.2432 of 2025
and
C.M.P(MD)No.14591 of 2025

S.Balakrishnan

... Petitioner

Vs.

1.Vanaja

2.Balammal

3.S.A.Arjuna Raja

... Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, praying this Court to setting aside the fair and final order passed in I.A.No.1 of 2024 in O.S.No.91 of 2023, dated 14.07.2025 on the file of the District Munsif cum Judicial Magistrate Court No.I, Virudhunagar District at Srivilliputtur.

For Petitioner : Mr.P.Saravanan



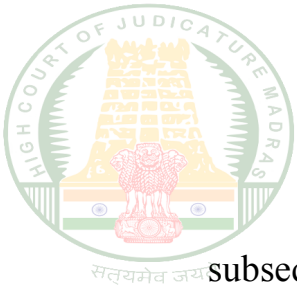
C.R.P(MD)No.2432 of 2025

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ORDER

The present revision petition has been filed against the order rejecting the petitioner's application seeking rejection of the plaint.

2. The learned Counsel appearing for the petitioner would contend that the first respondent herein had filed a suit challenging the sale deed executed by the first defendant in favour of the second defendant and also for a declaration to declare the document executed in favour of the first defendant by the husband of the first plaintiff and the father of the second plaintiff as null and void and for a consequential declaration that the sale deed executed by the first defendant in favour of the second defendant as also null and void. The learned Counsel appearing for the petitioner would contend that, even in the pleadings, the plaintiffs had averred that under the guise of executing a power of attorney, the petitioner has mislead the husband of the first respondent and father of the second respondent to execute a document in his favour. He would submit that such transfer of title had taken place as early as in the year 1995. The claim of the plaintiff is to set aside such document and the



C.R.P(MD)No.2432 of 2025

WEB COPY

subsequent document executed by the petitioner in favour of the third respondent is hopelessly barred by the law of limitation. He would further submit that, even though the respondents had remained *ex parte*, the Court below had rejected the application filed by the petitioner to reject the plaint. He would vehemently contend that the Court should be cautious enough to nip the cases which have been filed much beyond the period of limitation. He would further contend, the Trial Court had erroneously held that the allegations of suppression of material facts made in the application to reject the plaint could only be considered after the trial in the suit. He would further submit, respondents 1 and 2 have failed to file their counter which would only show that they have admitted to the allegations made in the application and therefore, on the strength of the same, the application ought to have been allowed and the plaint should have been rejected. On the contrary, the Court below failed to exercise its jurisdiction and had dismissed the application filed by the petitioner as a consequential one. Hence, he seeks interference with the orders passed by the Court below.



C.R.P(MD)No.2432 of 2025

WEB COPY

3. I have carefully considered the submissions made by the learned Counsel appearing for the petitioner.

4. The primordial contention of the petitioner is that, firstly, the suit is barred by limitation and the plaint had been presented by suppressing various material facts and therefore, the plaint have to be thrown out. It had been repeatedly held by the Hon'ble Apex Court that, the issue of limitation is a mixed question of law and fact. It is the claim of the petitioner that by suppressing the material facts, respondents 1 and 2 are attempting to revive a dispute. As rightly held by the Court below, such allegations can only be decided after completion of trial and hearing of the arguments in the case. Even before that, such claim cannot be decided in the present stage.

5. For the aforesaid reasons, I do not find any merits in the revision petition and accordingly, the civil revision petition stands dismissed. However, there shall be a direction to the District Munsif cum Judicial Magistrate Court No.I, Virudhunagar District at Srivilliputtur to frame a preliminary issue with regard to the issue of limitation and



C.R.P(MD)No.2432 of 2025

WEB COPY

dispose of the said issue, within a period of three (3) months from the date of receipt of a copy of this order on merits and in accordance with law and thereafter, pass appropriate orders in the suit. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

03.09.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

The District Munsif cum Judicial Magistrate Court No.I,
Virudhunagar District at Srivilliputtur.



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C.R.P(MD)No.2432 of 2025

K.KUMARESH BABU, J.

BTR

Order made in
C.R.P(MD)No.2432 of 2025

03.09.2025