



CRP.(MD).No.9 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

CRP.PD.(MD).No.9 of 2025

against

I.A.No.3 of 2024

in

O.S.No.3 of 2013

and

CMP(MD).No.106 of 2025

1.Tamilarasi

2.Natarajan

.. Petitioners/Respondents 1 & 2/
Defendants 1 & 2

Vs.

1.Udayakumar

2.The Sub-Registrar Office,

Pudukkottai

.. 1st Respondent/Petitioner/Plaintiff

.. 2nd Respondent/3rd Respondent/3rd
Defendant

Prayer: This civil revision petition has been filed under Article 227 of the Constitution of India to allow this Civil Revision Petition by setting aside the fair order and decretal order in IA.No.3 of 2024 in O.S.No.3 of 2023 on the file of the Principal Sub Court, Pudukkottai dated 04.11.2024.



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For Petitioners : Mr.N.Balakrishnan
For R1 : Mr.S.Selvakumar
For R2 : Mr.S.P.Maharajan
Special Government Pleader

ORDER

The defendants 1 and 2 in O.S.No.3 of 2013 on the file of the Principal Sub Court, Pudukkottai has filed the present revision petition, challenging the allowing of an application filed by the plaintiff under Order VI Rule 17 of the Code of Civil Procedure on the ground that is barred by limitation.

2. A perusal of the records reveal that the first respondent in the present civil revision petition has filed the above said suit for the relief of permanent injunction not to disturb his possession. The first defendant has filed his written statement on 12.12.2013, contending that there is a gift deed in favour of the plaintiff by her father executed on 20.11.1997, and without challenging the said document the suit for permanent injunction is not maintainable.



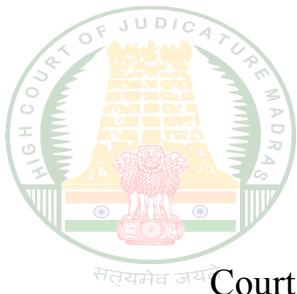
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3. After either side evidence was closed and the suit was posted for arguments, at that stage the plaintiffs filed I.A.No.3 of 2024 to amend the plaint to incorporate the prayer for declaration that the gift deed dated 20.11.1997, is not binding on the plaintiff. This application came to be allowed by the trial Court on the ground that a chance may be granted to the plaintiffs to contest the proceedings. Challenging the same, the present civil revision petition has been filed.

4. According to the learned counsel appearing for the petitioner when the issue of maintainability of the suit was raised as early as on 12.12.2013 citing the gift deed dated 20.11.1997, the present application for amendment has been filed only on 24.04.2024, which is clearly barred by limitation. When there is no dispute with regard to the dates, the Court ought not to have entertained the application for amendment.

5. *Per-contra*, the learned counsel appearing for the respondent/plaintiff had relied upon the judgment of this Court in [CRP(PD)(MD).No.950 of 2013 dated 18.11.2019] between **Katharmeera Rowther and Ors Vs. Indrani and Anr** to impress upon



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Court that the amendments could be allowed at least from the date of passing of order if not from the date of filing of the suit.

6. The learned counsel appearing for the respondent has also relied upon the judgments of the Hon'ble Supreme Court in **Mohinder Kumar Mehra Vs. Roop Rani Mehra and Ors. [(2018)-2-LW.11]** and **N.C.Bansal Vs. Uttar Pradesh Financial Corporation [(2018) 2 MLJ]** to contend that the amendment application should be allowed irrespective of the stage of the suit.

7. Heard both sides and perused all the materials available on record.

8. A perusal of the plaint averments reveal that the plaintiff has prayed for permanent injunction in order to protect his possession. The first defendant in his written statement filed on 12.12.2013 has specifically contended that he claims title to the property on the basis of a gift deed executed by her father on 20.11.1997. The application for amendment of the plaint to challenge the said document has been filed



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only on 24.04.2024. In view of the fact that the application has been filed belatedly, this Court is not inclined to invoke the Doctrine of Relation Back.

9. The trial Court has proceeded to allow the application in order to grant a chance to the plaintiff. The said order stands confirmed with the observations that the amendments will take effect only from 05.03.2025 and it will not relate back to the date of filing of the plaint. The defendant would be entitled to raise the plea of limitation with regard to the prayer for declaration and the defendant shall also be entitled to file an additional written statement.

10. With the above said observations and directions, this civil revision petition stands disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

05.03.2025

NCC : Yes/No
Index : Yes/No
Internet : Yes
nst



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To
The Principal Sub Judge,
Pudukkottai.



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R.VIJAYAKUMAR,J.

nst

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