



WEB COPY

CRP No. 1244 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-03-2026

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 1244 of 2024

AND

CMP NO. 6579 OF 2024

1. Durga Devi Rajagopalan
W/o Late M.Balachander, 8 CD
IKEBANA ABAD Builders, Vidya
Nagar Cross Road 8 Kadavantra,
Cochin 682 020

2.Minor Gokul
Rep by his Guardian/Mother Durga
Devi, 8 CD IKEBANA ABAD
Builders, Vidya Nagar Cross Road 8
Kadavantra, Cochin 682 020

Petitioner(s)

Vs

1. Muthukumar
S/o G.Muniasamy, No.42, Phase I,
Chettinad Enclave, Sunambukulathur
Road, Narayanapuram, Pallikaranai,
Chennai

2.Subbulakshmi
W/o G.Muniasamy, Plot No.82/132,
Madakulam Main Road, Madakulam,
Madurai

Respondent(s)

CRP No. 1244 of 2024

PRAYER

To set aside the Order dated 31.07.2023 in IA.No. 2 of 2022 in OS.No. 354 of 2019 passed by the Subordinate Judge at Tambaram



CRP No. 1244 of 2024

For Petitioner(s): C/v M/s.a.b.prabhakar
G.Santhosh
Kumar-ms/2995/2019
V.jithesh For Appellants

For Respondent(s): T.D.Mohan Ram
R.Venkataramani
For Rr1 And 2

ORDER

This Civil Revision Petition has been filed seeking to set aside the Order dated 31.07.2023 passed by the Subordinate Judge at Tambaram in IA.No. 2 of 2022 in OS.No. 354 of 2019.

2. The brief facts of the case :

The plaintiff filed the suit to declare the registered cancellation deed dated 04.04.2012 executed by deceased M. Balachandran in favour of the plaintiff in respect of scheduled mentioned property as null and void and also to declare patta granted in favour of defendants 1 to 3 as null and void. While so, the petitioners herein filed IA.No. 2 of 2022 in OS.No. 354 of 2019 on the file of the Subordinate Judge Tambaram, seeking to reject the plaint, stating that cancellation of settlement deed which is under dispute is executed on 04.04.2012. So the plaintiff should have filed the suit within a period of 3 years but the suit filed after 7 years. Therefore, the suit is barred under Section 3 of Limitation Act. Hence, the petitioner prayed to reject the plaint.



3. The plaintiff/first respondent raised objection stating that on receipt of notice from the revenue officials they came to know about the cancellation of settlement deed by his brother. Hence, from the date of their knowledge they filed the suit within time limit. Hence, they prayed to dismiss this petition.

4. Upon hearing both sides, the Trial Court held that the plaintiff has not intentionally suppressed the alleged knowledge about the factum of the cancellation of settlement deed dated 04.04.2012 and also General Power of Attorney deed dated 03.05.2012. After receiving notice dated 11.09.2017 from the Tahsildar the plaintiff had come to know about the cancellation of settlement deed dated 04.04.2012. Therefore, the suit is not barred by limitation. Accordingly, dismissed the petition. Challenging the same, the petitioner filed this Civil Revision Case.

5. The learned counsel for the petitioners submit that the Trial Court ought to have appreciated the fact that within three years from the date of the cancellation of settlement deed the suit has to be filed. But the plaintiff filed the suit beyond the limitation period thereby it is barred by limitation. But the same cannot be considered by the Trial Court. Hence, he prays to allow this petition.

6. The learned counsel for the respondent submits that from the date of knowledge of cancellation of settlement deed the respondents filed the suit and the same was rightly considered by the Trial Court which needs no interference. Hence, he prays to dismiss this petition.



7. Heard the submission of the learned counsel for the petitioners and the respondents and perused the material available on record.

8. A perusal of records show that the plaintiff is brother of the deceased Balachandran who is said to have executed settlement deed dated 09.03.2012 in respect of suit property in favour of the plaintiff and subsequently he was died on 09.04.2012. Thereafter, the plaintiff received notice from the Revenue Authorities, after verification, the plaintiff came to know that already the settlement deed was cancelled without his knowledge. Immediately, from the date of his knowledge the plaintiff filed the suit.

9. The contention of the plaintiff/respondent is that after cancellation of settlement deed on 03.05.2012 the said Balachandran executed General power of Attorney and the plaintiff is one of the witness of that document. Thereby, the plaintiff was very well aware of the cancellation of the settlement deed. However, the plaintiff has denied the said attestation of General power of Attorney.

10. Whether the plaintiff had the knowledge about the cancellation of settlement deed has to be decided only after completion of evidence and the same was rightly appreciated by the Trial Court which needs no interference. However, liberty is granted to the parties to take all defence before the Trial Court.



11. In the result, this Civil Revision Petition is dismissed. No Costs.

Pending petition, if any, is/are closed.

03-03-2026

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The Subordinate Judge at Tambaram.

2. The Section officer, V. R Section, High Court, Madras.



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T.V.THAMILSELVI J.
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