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C.R.NO.3124 OF 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDER RESERVED ON : 09 / 12 / 2025

ORDER PRONOUNCED ON: 28 / 01 / 2026

CORAM :

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.R.P.NO.3124 OF 2017

AND

C.M.P.NO.14600 OF 2017

S.Raveendran

... Petitioner/Petitioner/
Plaintiff

Versus

1.C.S.Elango
2.S.Sethupathy
3.S.Jothikrishnan
4.Devi

...Respondents 1 to 4/
Respondents 1 to 4/
Defendants

5.Sampoornam
6.C.Shanmugam
7.V.Saminathan
8.C.Muthusamy
9.Indirani
10.Samiappan
11.Matheswaran
12.Nallasivam
13.Ramasamy
14.Arayer
15.Ravi
16.Chinnaponnu
17.Poongothai
18.Sandakumar



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- 19.Saravanan
20.Kalaiarasi
21.Periasamy
22.Easwari
23.Raju
24.Thangavel
25.Karuppannan
26.Thulasimani
27.Ramalingam
28.Ambika
29.Jothimani
30.Sengottaiyan
31.Raju
32.Ravi
33.Gunasekaran
34.Sivasakthi
35.Malliga
36.Palanisamy
37.Subramani
38.Lakshmi
39.Chenniappan
40.Palanisamy
41.Indira
42.Poongodi
43.Duraisamy
44.Kannammal
45.Thambikalaiyan
46.Umapthi
47.Kaliannan
48.Annamalai
49.Kandiyayee
50.Dhanasekar
51.Prakash

...Respondents 5 to 51/
Respondents 5 to 51/
Proposed Parties

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India, 1950, praying to set aside the Fair and Final Order dated September 30, 2016 made in I.A.No.570 of 2014 in O.S.No.176 of 2013 on the file of I Additional District Court, Erode.

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For Petitioner : Ms.D.Sathya
for Ms.Zeenath Begum

For Respondents-
1 to 3 : Mr.K.Arunraj - No appearance

For Respondents-
5, 34, 40, 41, 45 & 51 : Served – No appearance

For Respondents-
10 to 14, 16 to 25,
29 to 33, 36, 38, 43,
44 & 48 to 50 : Mr.S.Sankar

For Respondents-
4, 6 to 9, 15, 26 to 29,
35, 37, 39, 42, 46 & 47 : Dismissed vide Order of this
Court dated February 10, 2023

ORDER

Feeling aggrieved by the Dismissal Order passed in a petition filed by the Plaintiff under Order I Rule 10 (2) read with Section 151 of 'the Code of Civil Procedure, 1908' ('CPC' for short) in I.A.No.570 of 2014 in O.S.No.176 of 2013 on the file of 'the I Additional District Judge, Erode' [hereinafter referred to as the 'Trial Court'], the Petitioner/Plaintiff therein has preferred this Civil Revision Petition.

2. The Revision Petitioner herein is the Plaintiff and the Respondents 1 to 4 herein are the Defendants in the Suit in O.S.No.176 of 2013 and the Respondents 5 to 51 are the proposed Defendants 5 to 51 in

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the aforesaid Suit. For the sake of convenience and clarity, the parties will hereinafter be referred to as per their array in the Original Suit.

3. The case of the Plaintiff is that the Suit Properties were acquired by N.Songappan vide a Partition Deed dated May 03, 1974 as ancestral properties. The aforesaid N.Songappan passed away leaving behind his wife, namely, Pavathal and four sons, namely, C.S.Elango (Defendant-1), S.Raveendran (Plaintiff), S.Sethupathy (Defendant-2), S.Jothikrishnan (Defendant-3) and one daughter namely, Devi (Defendant-4).

3.1. Further case of the Plaintiff is that 30 years prior to the Suit, the 4th Defendant orally relinquished her share in favour of her brothers, namely, the Plaintiff and the Defendants 1 to 3 and as such the Plaintiffs and the Defendants 1 to 3 alone are enjoying the suit properties in common. There was a misunderstanding between the Plaintiff and the Defendants 1 to 3 enjoying the properties in common and hence, the Plaintiff filed a Suit seeking partition of the Suit Properties and a permanent injunction against the Defendants 1 to 3.

4. The 1st Defendant filed written statement in the month of November 2013, which was adopted by 2nd and 3rd Defendants. The case



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of the 1st Defendant is that after the demise of N.Songappan on December 09, 1992, the Plaintiff and the Defendants 1 to 3 and their mother - Pavathal arrived at a Family Settlement and the same was reduced into writing. In the said Family Arrangement, 'A' Schedule property therein was allotted to Pavathal, the mother of the Plaintiff and Defendants; 'B' Schedule property therein was allotted to the 1st Defendant; 'C' Schedule property therein was allotted to the Plaintiff; 'D' Schedule property therein was allotted to the 2nd Defendant; 'E' Schedule property therein was allotted to the 3rd Defendant. As per the Family Arrangement dated December 09, 1992, Suit Item Nos.7 and 8 of the Suit Property were allotted to 1st Defendant and he was in possession and enjoyment of the same. Thereafter, in 2001, he converted the aforesaid land into house sites and sold them for more than 60 persons. Suppressing the said fact, the plaint has been filed with a *mala-fide* intention. The Suit is bad for non-joinder of necessary parties. In the event of concluding that the Plaintiff is entitled to a share in the Suit Property, the portion that are enjoyed by the proposed defendants may be allotted to them under equity. Accordingly, he prayed to dismiss the Suit.

5. After filing of the written statement, the Plaintiff filed a petition under Order I Rule 10 (2) of CPC seeking to implead the purchasers of

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the suit property from the 1st Defendant stating that Sale Deeds were created with a view to defeat and defraud the Plaintiff's right over the Suit Properties. The proposed parties filed a counter stating that they are not necessary parties to the Suit, that they purchased the properties from the 1st Defendant in the year 2001 itself and they are *bonafide* purchasers with value. Hence, the possessions of the purchasers are adverse to the Plaintiff. Further, no relief was sought against the proposed parties. Accordingly, they prayed to dismiss the petition.

6. The Trial Court after hearing both sides' concluded that the proposed parties / respondents 6, 9, 15, 27, 28, 37, 40 and 45 purchased the properties as early as in the year 2001. Hence, the relief sought for by the Plaintiff is barred by limitation and accordingly, dismissed the Interlocutory Application.

7. Ms.D.Sathya appearing on behalf of Ms.Zeenath Begum, Counsel on record for the Revision Petitioner / Plaintiff submits that there was no Family Arrangement as alleged by the 1st Defendant. The 1st Defendant with a view to defeat and defraud the right of the Plaintiff, created various Sale Deeds in favour of the proposed parties. Hence, they are necessary parties to decide the *lis*. The Trial Court without



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appreciating the facts and circumstances of the case, erred in dismissing the Interlocutory Application. Therefore, she prayed to allow the Civil Revision Petition, set aside the Order passed by the Trial Court and to allow the Interlocutory Application in I.A.No.570 of 2014.

8. *Per contra*, Mr.S.Sankar, learned Counsel appearing for the proposed parties submits that there was a Family Arrangement took place between the Plaintiff and the Defendant's mother on December 09, 1992. Pursuant to the Family Arrangement, the Plaintiff and the Defendants 1 to 3 were enjoying their property and mutated the revenue records. After verifying the revenue records and possession, the proposed parties purchased the properties in the year 2001 from the 1st Defendant with value and they are *bonafide* purchasers. Hence, only with a view to harass the proposed parties, he filed the Original Suit and Interlocutory Application. There is no *bonafide* intent in filing the Interlocutory Application. The Trial Court after appreciating the entire facts and circumstances of the case, dismissed the Interlocutory Application and there is no need to interfere with it. Accordingly, he prayed to dismiss this Civil Revision Petition and sustain the Order passed by the Trial Court.



9. This Court has considered both sides' submissions and perused the materials available on record.

10. Admittedly, the suit properties were acquired by N.Songappan vide Partition Deed dated May 03, 1974 as ancestral properties. Admittedly, the Plaintiffs and the Defendants 1 to 3 alone are enjoying the Suit Properties in common. The Plaintiff filed the Suit seeking partition of the Suit Properties from the Defendants 1 to 3 and also permanent injunction against them. After the demise of N.Songappan, the Plaintiff and the Defendants 1 to 4 are entitled to the Suit Properties. According to the 1st Defendant, after the demise of N.Songappan, a Family Arrangement took place on December 09, 1992.

11. On perusal of the written statement, though the 1st Defendant pleaded the said fact, the Family Arrangement document was not annexed in the written statement. This Court is unable to find whether the Family Arrangement document is registered or unregistered, whether the said Family Arrangement is a document to record past transactions or deals with rights *in presenti*. The 1st Defendant has categorically pleaded in the written statement that he sold Suit Item Nos.7 and 8 to third parties. The proposed parties in their counter pleaded that they purchased their



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respective properties from 1st Defendant in 2001 after verification of the records and the possession of 1st Defendant. The plaintiff did not deny the fact that the properties in Suit Item Nos.7 and 8 were sold in 2001 to the proposed parties. In these circumstances, if the petition is allowed, the proposed parties' rights, accrued in the 12 years between the purchase and filing of Suit, would be prejudiced. To be noted, the Interlocutory Application has been filed in the month of September 2014. Hence, there is no *bonafides* behind the Interlocutory Application. If the Interlocutory Application is allowed, it will delay the proceedings drastically. The proposed parties i.e., more than 45 people, had purchased the portions of Suit Item Nos.7 and 8 as plots in the year 2001. Had the plaintiff taken minimum care, he would have learnt about the purchase. To be noted, the plaintiff has pleaded that he is in joint possession and enjoyment of suit property. It is learnt that the defendants 1 to 3 executed a Gift Settlement Deed in favour of the local body for formation of road and other purpose in or around the year 2001. Under such circumstances, it is not believable that the plaintiff was not aware of the purchase made by the proposed parties.



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12. In view of the foregoing narrative, the Civil Revision Petition is dismissed and the Order of the Trial Court under challenge is sustained. Considering the facts and circumstances of the case, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes
Speaking Order : Yes
Neutral Citation : Yes
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To

The I Additional District Judge,
Erode.



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R. SAKTHIVEL, J.

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PRE-DELIVERY ORDER MADE IN

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