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CRP No. 5152 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-02-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

**CRP No. 5152 of 2025 and
CMP.No.25979 of 2025**

S. Prabhakaran

..Petitioner(s)

Vs

- 1.G. Muthukrishnan
- 2.G. Pandurangan
- 3.G. Gunasekaran
- 4.S. Sudhakaran
- 5.K. Siddharthan
- 6.K. Thangapazham
- 7.R. Ramamurthy
- N. Janardhanan (Died)
8. S. Premkumar
- 9.S. Sathishkumar
- 10.L. Devanathan
- 11.P. Prabhavathy
- 12.S. Selvam
- 13.Umamaheshwari

14.The State of Tamil Nadu
Rep by District Collector, Manjakuppam,
Cuddalore.

15.The Sub-Registrar
Cuddalore Municipality, Manjakuppam,
Cuddalore.

16.The Commisisoner
Cuddalore Municipality, Bharathi Road,
Cuddalore.

17.The Thasildar



Cuddalore Taluk Office, Beach Road,
Cuddalore.

18.The Assistant Engineer (Town)
Tamil Nadu Electricity Board, (O and M),
River Side Street, Pudupalayam, Cuddalore.

19.Raja @ Govindaraj

20.The Sub Registrar
Cuddalore Main Road, Nellikuppam, Cuddalore.

21.R. Pandian

..Respondent(s)

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the Order passed in I.A.No.103 of 2025 through its order dated 19.06.2025 in O.S.No.92 of 2004 on the file of Learned Additional District Munsif, Cuddalore and to reject the plaint in O.S.92 of 2004 pending on the file of Learned Additional District Munsif, Cuddalore.

For Petitioner(s): Mr.K.S.Jeyaganeshan

For Respondent(s): R.Rajavelavan for R1 to R6
Mr.N.Muthuvel for R14 to R17 & R20
Government Advocate

ORDER

The civil revision petition is filed challenging the order passed by the trial court dismissing the application filed by the petitioner/7th defendant seeking rejection of the plaint.



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2. The respondents 1 to 7/plaintiffs filed a suit seeking declaration that the so-called decree of declaration granted in O.S.No. 225 of 2003 on the file of I Additional Sub-Court, Cuddalore dated 30-10-2003 for the sale of the trust properties namely suit properties was null and void. They also sought for declaration that two sale deeds dated 12-12-2003 and 12.12.2003 executed by 1st defendant in favour of defendants 6 and 7 were void *ab initio* and consequently pass a decree for recovery of possession of the suit properties. They also sought for permanent injunction restraining the defendants 1 and 2 from alienating and encumbering item 2 of the suit properties. The respondents 1 to 7 also sought for mandatory injunction directing the defendants 1 and 2 to deposit the sale proceeds derived by them under void sale deeds dated 12-12-2003 into Court.

3. According to the plaintiffs in the suit, the suit properties originally belonged to one Krishnasamy Mudaliar and he created a Trust called Krishnasamy Mudaliar Trust under registered Will dated 25-04-1920. As per the terms of the Will, the properties were set apart for the purpose of certain charities. The first defendant, who is the descendant trustee of the above-mentioned trust, executed two registered power deeds dated 17-02-2003 and 21-02-2003 in favour of second defendant enabling him to sell the trust properties. It is the specific case of the petitioner/ 2nd defendant that as per the terms of the



Will, the trust properties are inalienable and any alienation is void. The petitioner herein/ 2nd defendant, on the terms of the power deeds executed by the first defendant, filed a suit in OS.No.225 of 2003 on the file of the I Additional Sub-Court, Cuddalore against his brothers and sought for a declaration that he was entitled to sell the suit properties. The defendants in the said suit colluded with the 2nd defendant and remained ex-parte deliberately and consciously. Therefore, an ex-parte decree was passed in favour of the second defendant. Based on the said collusive ex-parte decree obtained by the second defendant as power agent of the first defendant, the first defendant sold the suit properties to defendants 6 and 7 under two sale deeds mentioned above.

4. The respondents 1 to 7/plaintiffs, claiming themselves as beneficiaries of the Trust, instituted a present suit for the above said reliefs. The petitioner/second defendant filed an application seeking rejection of the plaint in IA.No. 103 of 2025 and the same was dismissed by the trial court. Aggrieved by the same, the petitioner/ 2nd defendant has come before this court.

5. The learned counsel for the petitioner would contend that earlier decree was passed by Additional Sub-Court, Cuddalore and the said decree cannot be challenged before the inferior court namely District Munsif Court and hence, the suit filed by the respondents 1 to 7 is not at all maintainable and the same is liable to be rejected. He further submitted that the suit has been filed without obtaining any leave under Section 92 of CPC. He also submitted that the suit has been filed in respect of the trust properties. Therefore, it should have



been filed only before the Principal Civil Court of original jurisdiction and therefore, the suit filed before the District Munsif Court is not at all maintainable.

6. As far as the 1st contention raised by the learned counsel for the petitioner is concerned, if a decree passed by the Court is attacked on the ground of fraud, it can be challenged before any Court. In this regard, the learned counsel for the respondents 1 to 6 relied on the judgment of the Hon'ble Apex Court in the case of ***A.V.Papayya Sastry and Others Vs Government of A.P. and Others reported in 2007 (1) CTCOL(SC) 814***. The relevant observation of the Hon'ble Apex Court in the above mentioned judgment reads as follows:-

“19. Now, it is well settled principle of law that if any judgment or order is obtained by fraud, it cannot be said to be a judgment or order in law. Before three centuries, Chief Justice Edward Coke proclaimed;

Fraud avoids all judicial acts, ecclesiastical or temporal.

It is thus settled proposition of law that a judgment, decree or order obtained by playing fraud on the Court, Tribunal or Authority is a nullity and non est in the eye of law. Such a judgment, decree or order --by the first Court or by the final Court-- has to be treated as nullity by every Court, superior or inferior. It can be challenged in any Court, at any time, in appeal, revision, writ or even in collateral proceedings”. (Emphasis supplied by this Court).



7. In the case on hand, it is the specific case of the respondents 1 to 7/ plaintiffs that the petitioner herein filed earlier suit, as a power agent of the first defendant, against his two brothers namely defendants 3 and 4. They collusively remained ex-parte and ultimately, ex-parte decree was passed declaring the plaintiffs therein were entitled to sell the trust properties. When the earlier decree is challenged on the ground of collusion and fraud, as per the law settled in the above mentioned case law, the decree in the earlier suit can be challenged before any Court of competent jurisdiction whether inferior or superior. Therefore, I am unable to accept the contention raised by the learned counsel for the petitioner. Accordingly, the same is rejected.

8. As far as the contention raised by the learned counsel for the petitioner that the present suit, being related to the trust properties, should have been filed before the Principal Civil Court of original jurisdiction, a perusal of the plaint would indicate that this is not a suit concerning administration of the Trust. The main prayer sought for in the present suit is regarding the invalidity of decree passed in the earlier suit. Apart from that, the petitioner seeks declaration regarding invalidity of two subsequent sale deeds and the relief of recovery of the possession, etc., When the relief sought for in the present suit is not the one relating administration of the Trust, the ingredients of Section 92 of CPC are not satisfied. We cannot term the present suit as the one filed under Section 92 of CPC. Therefore, the second and third contentions raised by the learned counsel for the petitioner are also not appealable to this court. When this is not a suit



under Section 92 of CPC, no leave need to be obtained and suit need not be filed before Principal Civil Court of Original Jurisdiction as required under said section. Therefore, the impugned order passed by the trial court stands confirmed. Accordingly, the civil revision petition stands dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

20-02-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
nr

To

- 1.The District Collector, Manjakuppam, Cuddalore.
- 2.The Sub-Registrar
Cuddalore Municipality, Manjakuppam, Cuddalore.
- 3.The Commisisoner
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- 7.The Additional District Munsif, Cuddalore.



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S.SOUNTHAR, J.

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