

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE, DHARMAPURI

Present: Tmt.U.Monica,M.L.,
Additional District Judge,
Dharmapuri.

Friday, this the 2nd day of June 2023

I.A.No.5/2023
in
O.S.No.56/2022

1. Mahalingam
2. Chennakesavan
3. Perumal

... Petitioners/plaintiffs

/ versus /

1. Mani
2. Ragavendran
3. Narmatha
4. Nandhini
5. Nagarajan
6. Ananthalatchumi @ Priya
7. Kiruthika
8. Rani
9. Chinthamani
10. Devaki

... Respondents/defendants

This petition is coming up before me on 2.6.2023 for final hearing in presence of Thiru.C.Periannan, Advocate for the petitioners and Thiru.I.Veerassamy, Advocate for the respondents and upon hearing both side arguments and on perusal of entire case records and having stood over for consideration till this day, this court delivered the following;

ORDER

This petition has been filed under Order-12, Rule-6 of CPC to pass the decree for

prayer 1 and 3 with respect to the suit properties.

2. The averments in the petition in brief is as follows:

According to petitioners, the suit properties absolutely belonged to Ramasamy and the same was purchased for a valuable consideration from the said Ramasamy by one B.Narayanan by way of registered Sale deed dated:29.6.1994. The suit properties were purchased by second and third petitioners from the said B.Narayanan by way of sale deed bearing Reg.No.4255/2018. The first petitioner purchased Item No.1 of the suit property for a valuable consideration by way of Sale deed dated:31.2.2021. Item No.1 of the suit property is under the exclusive possession and enjoyment of the first petitioner and the Item No.2 of suit property is under the exclusive possession and enjoyment of the 2nd and 3rd petitioners. In the written statement filed by the defendants they have clearly admitted that the suit properties are the separate properties of their grand father Rama gounder. Hence it is clear that upon the death of Rama gounder, his son Ramasamy has absolute right and title over the suit properties as it is the separate property under Section 8 of Hindu Succession Act. As absolute owner Ramasamy has got right to sell the suit properties. Hence the Sale deed dated:29.6.1994 executed by him to B.Narayanan is a valid one and the respondents have no right to challenge the same. It has to be inferred that the respondents admit the plaintiffs right over the suit properties. The said Ramasamy has not challenged the sale deed during his life time. Hence the defence taken by the respondents is clearly time barred. Hence prayer 1 and 3 of the suit has to be decreed based on the admission made by the respondents in the

written statement under Order 12, Rule 6 of CPC.

3. The averments in the counter filed by the respondents in brief is as follows:

The respondents resisted the petition by contending that they have already filed suit which is pending in this court alleging that B.Narayanan has obtained forged sale deed and the sale deed is not a valid one. The alleged forged sale deed in the name of B.Narayanan will not bind upon the defendants. All the allegations in the petition are not correct and the same fortifies the fact that the suit properties belonged to defendants. Hence the petition has to be dismissed.

4. The point for consideration:

Whether the petition is to be allowed or not?

6. Heard both side. No oral evidence have been adduced on either side.

7. Point:

a) According to petitioners, the defendants have admitted that the suit properties are the separate properties of their grand father Rama gounder, as such it becomes the separate properties of the defendants father Ramasamy and sale deed executed by Ramasamy on 29.6.1994 in favour of B.Narayanan is valid, so based upon the admission in the written statement, prayer 1 and 3 of suit has to be allowed and decree has to be passed.

b) The respondents filed counter alleging that the sale deed in favour of

B.Narayanan is a forged one and it is not a valid one. Hence the petitioners cannot have any right over the suit properties and the petition has to be dismissed.

c) This is a suit for declaration of title and permanent injunction to stay the proceedings in O.S.No.20/2011, O.S.No.41/2014 and O.S.No.45/2022 on the file of Principal Sub court and Additional Sub court, Dharmapuri and for cost. The defendants have filed written statement and after framing of issues the case was posted in the list and at this stage this petition has been filed.

d) It is the case of the petitioners that the defendants have admitted that the suit properties are the separate properties of their grand father Rama gounder and after his death it devolved upon his son the defendants father Ramasamy, as such the defendants have no right over the suit properties by their birth. The Sale deed dated:29.6.1994 executed by Ramasamy infavour of B.Narayanan is valid, as the defendants have admitted that it became the separate properties of Ramasamy the sale deed executed in favour of B.Narayanan is a valid one, hence it has to be inferred that the defendants have admitted the title of the plaintiffs and the suit has to be decreed in respect of prayer 1 and 3 i.e., declaration of Item No.1 and 2 of suit properties.

e) It is the contention of the respondents that they denied the title of Satyanarayanan and the sale deed standing in his name obtained by forgery and the same is not a valid one.

f) This court is of view that the defendants denied the validity of the title of

Narayanan, the vendor of the plaintiffs the suit cannot be decreed merely because the defendants have stated in the written statement that the suit property is the separate property of their grand father Rama gounder. Only after full fledged trial, the validity of sale deed in the name of Narayanan can be decided. At this preliminary stage, the validity of the sale deed in the name of Narayanan cannot be decided. Only if the validity of the sale deed in the name of Narayanan is decided the right of the plaintiffs who have purchased from the said Narayanan can be decided.

g) There is no acceptable and valid admission in the written statement to decree the suit in respect of declaration of the suit properties. Hence this petition is not maintainable.

In the result, petition is dismissed. Both parties are directed to bear their own costs.

Dictated by me, typed by the Steno-typist, corrected and pronounced by me in Open Court on this the 2nd day of June 2023.

Additional Sessions Judge,
Dharmapuri.

Petitioner side Evidence, Exhibits: Nil

Respondents Side Evidence, Exhibits: Nil.

Additional Sessions Judge,
Dharmapuri.

Fair Order

I.A.No.5/2023 in
O.S.No.56/2022

Dated:2.6.2023.

