

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
PERAMBALUR DISTRICT, TAMIL NADU STATE.

Present: Tmt.A.Balkis, B.L.,
Principal District Judge.

Wednesday, this the 18th day of December, 2024.

I.A.No.1/2023
in
O.S.No.32/2022

S. Jayalakshmi,
W/o. Chellaiya,
Thuraiyur Salai,
Perambalur Taluk & District.

--- Petitioner/
3rd Defendant.

-Vs-

1. R. Latha, W/o. Rengaraj,
Thilagar Nagar, 15- Velampalayam,
Thirupur, Trichy District-641 652.
2. R. Rengaraj, S/o.(L). Ramasamy,
Perambalur Taluk & District.
3. R. Peramanandham,
S/o. Rengaraj.
the respondents 2 and 3 are residing at
Keerambur Village,
Thuraiyur Taluk, Trichy District.

---Respondents/Plaintiffs/
1, 2 Defendants.

This petition is coming up before me for final hearing in the presence of Thiru.S. Saravana Muthu, Advocate for the petitioner and Thiruvalargal.E. Valluvan Nambi, R. Panneerselvam, K. Periyasamy and P. Elamaiselvan, Advocates for the 1st respondent and the 2nd and 3rd respondents called absent set exparte in main suit and

upon perusing the petition, counter and other relevant records, this Court has passed the following:

ORDER

This petition has been filed U/O VII Rule 11 and Section 151 of CPC to reject the plaint from the file of this Court with exemplary costs.

2. Brief averments made in the petition is as follows:

The case of the petitioner/3rd defendant is that she is the 3rd defendant in the suit. The plaintiff, who is the wife and mother of the 1 and 2 defendants, who are all said to be her vendor of the suit property on 01.07.1998 filed the vexatious suit by suppression of facts and truth for the alleged relief of partition against her. Mere drafting and the pleadings in the plaint itself enlightens that the plaintiff/mother/settlee, who already executed a registered settlement deed dated 22.05.1995 to her son, now alleging against the law barred reliefs over her husband, son and the lawful vendor/herself, as the allegations are all barred by law. Mere reading of the above plaint clearly enlightens that the above plaint/suit is barred by Law and non-disclosure of cause of action, as she already executed a registered settlement deed as per Indian Registration Act duly executed and registered the same in favour her son, who is a vendor of this petitioner. The original settlement deed is in her hands along with her son and husband. Thus the plaintiff non-disclosed it about the original of the same, who are all being a husband, wife and son playing a fraudulent acts of drafting of documents, as her if executing a deed of settlement, registering the same in favour of her son and then alleging by suppression of the truth, non-disclosure of her indemnity rights of her son's duty, etc., before this Court. The plaintiff cleverly and intentionally, as to non- disclose the causes, suppressed her possession and enjoyment of the suit property till date. Where it being consists of a house with appropriate tax receipts, well irrigation with electricity service connection, etc., and it is all in absolute her possession and enjoyment of the same. Hence, she filed a necessary

photographs to enlight that the plaint is barred by non-disclosure of cause of action. The above said fraudulent acts are all being root cause for the multiplicity of proceedings, litigations which been strictly attack the fundamental rights of the petitioner/3rd defendant, in enjoying her property and living peacefully in this society, by the law barred suit. All root cause for the culprit to enjoy sophisticatedly by just filing the above law barred suit and making a bargaining, compromise, etc., as second round to extract money and black mail process of sowing illegality and criminal acts in the society and against her and her suit property. Thus by entertaining the above plaint are all being causing a illegality and growth of the criminal in the society by way of suits / above plaint, who already executed a registered deed, under the Indian Registration Act. In the interest of justice and to avoid multiplicity of proceedings, unnecessary litigations, etc., the above Law barred plaint to be rejected in limini. Where to avoid multiplicity of proceedings, litigations, swallowing the valuable time of this Court, causing irreparable mental torture, agony, loss hardship, etc, and to get justice she has filed this application. It may be a valuable contribution of this Court, which already identified that the rights of the plaintiff of her 1/3 undivided share, she already legally transferred by way of registered settlement deed dated 22.05.1995 in document No.1308/1995. Thus the cause of justice and the provisions of the causes under the Transfer of Property Act, Indian Registration Act are all screened wholly by the above fraudulent and frivolous litigation by beguiled by dubious play of the plaintiff by way of representation of drafting the plaint as collaboration of shady actions in this society along with her husband and son, who are all the 1 and 2 defendants. Unless this petition is allowed, she will be put to irreparable loss, hardship and it could not be compensated by any means. Therefore this Court may be pleased to reject the plaint from the file of this Court and costs. Hence this petition.

3. The brief averments made in the counter filed by the 1st respondent/plaintiff as follows:-

The contention of the 1st respondent/plaintiff is that all the allegations stated in the affidavit and petition are all denied as false except those that are specifically admitted hereunder and puts the petitioner/3rd defendant to the strict proof of the same. The petition is not maintainable under law and on facts and is liable to be dismissed in limine. The suit property was jointly purchased by the 1st respondent/plaintiff her husband the 1st defendant and the 1st defendant's mother Subbammal by means of registered sale deed, dated 21.03.1985 and had been jointly enjoying the same as co-owners. About 15 years back difference of opinion arose between 1st respondent/plaintiff and her husband 1st defendant and both 1st defendant and his mother Subbammal had driven the 1st respondent/plaintiff from the house. From that day onwards the 1st respondent/plaintiff has been working in a private company for a meager salary in Thiruppur. It seems after few years the 1st defendant and her son 2nd defendant colluded together with dishonest intention of depriving the 1/3 share of 1st respondent/plaintiff in the suit property arranged a person like 1st respondent/plaintiff and by impersonation and by committing forgery created a document styled as settlement deed on 22.05.1995 as if 1st respondent/plaintiff gifted her acre 0.66 cents in the suit property to her son the 2nd defendant. The same is an illegal and invalid document. In the said invalid document, it was mentioned as if the 1st defendant had died who is alive till today. The above creation of forgery document has been created by the 1st and 2nd defendant alone and no one else. The alleged said invalid document styled as settlement deed in favour of 2nd defendants is a void, invalid and unenforceable under law and the same has not come to effect and not acted upon. The 1st respondent/plaintiff denies the true execution valid attestation and valid registration of the said alleged settlement deed. The alleged said invalid forged document is not binding upon the 1st respondent/plaintiff and her undivided 1/3 share in the suit property. It seems based upon that forged invalid document in favour of 2nd

defendants, the 1st defendant and 1st defendant's mother Subbammal, the 2nd defendant conspired and jointly created a document styled a sale deed in favour of the petitioner/3rd defendant in respect of the suit property. The petitioner/3rd defendant is also well aware of the creation of forged document in favour of 2nd defendant by 1st and 2nd defendants by forgery and impersonation. The 1st and 2nd defendants and 1st defendant's mother Subbammal had no right whatsoever to create any document in favour of petitioner/ 3rd defendant in respect of suit property. The above document created like sale deed in favour of the petitioner/3rd defendant by 1st and 2nd defendants and said Subbammal is invalid, void and non-est in the eye of law. This 1st respondent/plaintiff denies of the true execution, valid attestation and passing of consideration of the said document styled as sale deed in favour of petitioner/3rd defendant. The same cannot convey any right or title, interest to the petitioner/3rd defendant in respect of suit property. The same is not binding upon the 1st respondent/plaintiff and her 1/3 share in the suit property. The above illegal acts of the 1st and 2nd defendants and said Subbammal and petitioner/ 3rd defendant were known to the 1st respondent/plaintiff only on 01.09.2020. Then the 1st respondent/plaintiff complained the matter to the Village Panchayatars and the 1st and 2nd defendants had admitted their above illegal acts before the Panchayatars and assured that they would arrange to divide and hand over the 1/3 share of the 1st respondent/1st plaintiff from the petitioner/3rd defendant in the suit property to the 1st respondent/plaintiff, but they had not kept up their assurance and just dragging on the time. At last on 16.02.2022 this 1st respondent/plaintiff met the petitioner/3rd defendant and 1st and 2nd defendants and asked them to divide the suit property into three equal shares and to allot one such share to the 1st respondent/plaintiff for which the 1 to 3 Defendants refused and challenged the 1st respondent/plaintiff to do what ever she likes. Then only the 1st respondent/plaintiff filed this suit against the petitioner/3rd defendant and the 1st and 2nd defendants for partition and recovery of possession and for mesne profits. Hence there is no bar under Limitation Act or under

any other law. The plaint containing the above facts amply prove that the suit is not barred by any law and there is true cause of action against the petitioner/3rd defendant and 1st and 2nd defendants for filing this suit before this Court. The averments of the plaint can be proved only at the time of the trial by letting in evidence and not at this stage. Further during enquiry Under Order 7, Rule 11 C.P.C. the averments in the plaint alone have to be looked in to. Hence there is cause of action for this suit and the suit is not barred by law of limitation and also not barred by any law. There is real cause of action for the suit and as stated above the averments of the plaint can be decided at the time of trial only. There are no merits in this petition and the petitioner/3rd defendant is not entitled to the relieves prayed for. Therefore, this petition may be dismissed.

4. Point for consideration is:

Whether the suit has to be rejected or not?

Point:-

5. This application is filed U/O VII Rule 11 and Section 151 of CPC for rejection of plaint on two grounds namely that there is no cause of action to file the suit and Court fees paid is not correct.

6. According to the petitioner/3rd defendant, the plaintiff has filed the suit for partition of the properties jointly purchased by her and the 1st defendant and mother of the 1st defendant. The plaintiff had executed a gift settlement deed on 22.05.1995 to her son and after the execution of settlement deed, the 2nd defendant who is the son of the plaintiff and the 1st defendant and the mother of the 1st defendant had executed a sale deed in favour of the petitioner/3rd defendant herein and therefore, the plaintiff has no right to claim for partition in the suit properties and the cause of action alleged in the plaint by the plaintiff is false.

7. The 1st respondent/plaintiff has filed a suit for partition in respect of the properties jointly purchased by herself, by her husband and her mother in law. According to the plaint averment, after the purchase of the property the 1st defendant and his mother had driven her out of the matrimonial home and she was living separately by eaking her livelihood and when she visited the suit property village, she learnt that the 1st and 2nd defendants had made impersonation and forgery as if she had executed a settlement deed in favour of the 2nd defendant and thereafter, the 1st and 2nd defendants made conspiracy and executed a sale deed in favour of the petitioner/3rd defendant and she convened a panchayat and before the panchayathars, the 1st and 2nd defendants have agreed to return back her 1/3rd share in the suit property. But they did not do so and thereby she has filed the present suit.

8. Further, the settlement deed alleged to have been executed by the plaintiff in favour of the 2nd defendant itself was disputed by the plaintiff in her plaint and she alleges that it is illegality and was done by way of impersonation. Therefore, these facts have to be proved by the plaintiff only at the time of trial. By relying upon the gift settlement deed alleged to have been executed by the plaintiff in favour of the 2nd defendant which was vehemently disputed by the plaintiff sale deed was taken by the petitioner /3rd defendant and hence there is cause of action and therefore, the suit cannot be rejected on this ground.

9. Another ground raised by the petitioner/3rd defendant is that the court fees was paid U/S.37 (2) of TN Court Fees Act. According to the petitioner/3rd defendant, she purchased the suit properties from the 1st and 2nd defendants and after her purchase, she was given possession of the same and thereby there is no joint possession as alleged by the plaintiff with regard to the suit property along with the 1st and 2nd defendants. Therefore, according to the petitioner/3rd defendant, the Court fees paid by the plaintiff is not correct. The plaintiff had disputed the execution of

settlement deed by stating that it was brought into existence by impersonation and she stated in the plaint that it is void document and non-est in law. A person can acquire a valid title only if she gets title from the owners of the property. Here the plaintiff had disputed that she did not execute any settlement deed in respect of her 1/3rd share in the suit property in favour of her son/2nd defendant. In case if the plaintiff had executed the settlement deed and is not a void document then the petitioner may get a valid title by getting sale deed executed from the 1st and 2nd defendants and the mother of the 1st defendant. Further the suit property is an agricultural land or a vacant land and so far as the vacant land and the agricultural lands are concerned, possession always follows title. Further, only if the person has purchased properties from legal owners he will get a legal title and the possession will also pass to that person. Therefore, when the sale deed in favour of the 2nd defendant itself was in dispute, the plaintiff cannot be deemed to be out of possession to require her 1/3rd share and to pay Court fees U/S.37(1) of Court Fees Act. Therefore, the ground raised by the petitioner/3rd defendant that the Court fees paid is also incorrect and falls to ground. Therefore, the petitioner has not made out the case for rejection of plaint and therefore, this point is answered as against the petitioner/3rd defendant.

10. In the result, the petition is dismissed. No cost.

Dictated to the Executive Assistant, transcribed and typed by her, corrected and pronounced by me in open Court, this the 18th day of December, 2024.

Principal District Judge,
Perambalur.

PDJ Court,
Perambalur.

Fair/Draft Order
I.A.No.1/2023
in
O.S.No.32/2022
D.D:18.12.2024