

IN THE COURT OF DISTRICT MUNSIF, GUDIYATTAM, VELLORE DISTRICT.

**Present : Thiru.M.N.Rajanandhivarmasiva, B.E., L.L.B.,
District Munsif, Gudiyattam.**

Tuesday, the 8th day of November 2022

IA.1/2020 in OS.352/2007

CNR.No.TNVL10-000022 – 2007

K.Munirathina.

...Petitioner/Plaintiff.

// Versus //

1.K.Damodaran.

2. D.Sundaravalli.

3.M.Amaravathi.

...Respondents/Defendants.

This petition came up on 08.11.2022 before me for final hearing in the presence of **Thiru.B.Thandapani., B.A., B.L.,** Advocate for Petitioner/ Plaintiff **Thiru.K.M.Boopathi., M.L.,** Advocate for the Respondents/Defendants upon hearing both sides and having stood over for consideration, this court delivered the following

ORDER

Petition filed Order 13 Rule 10 and Section 151 of CPC to send for the sale agreement dated 05.03.1996 from the file of subordinate Judge Court, Gudiyattam in Os.No.3/2007 to the file of this case and pass such other orders deems fit and proper in the Circumstances of the case.

I. Brief Averments of the Petition :-

1.1. Originally, belonged to one K.V.Somasundaram. He executed a sale agreement dated 05.03.1996 in his favour. On the basis of the said sale agreement petitioner filed sui as OS.3/2007 for Specific performance and got decree. Then petitioner filed execution proceedings and obtained sale deed and took possession through Court. As such petitioner was the absolute owner of the suit properties and petitioner have been in actual possession and enjoyment of the same.

1.2. The respondents are contesting the case on various untenable grounds. One

such ground the respondents stated in their written Statement is that the said sale agreement dated 05.03.2006 is an “antedated and fabricated” document. So, petitioner have to prove the genuineness of the said sale agreement dated 05.03.2006. The entire case revolves around the genuineness of the same agreement dated 05.03.2006. Hence, the said sale agreement has to be sent for from the file of Gudiyattam Sub Court OS.3/2007 to the file of this Court.

1.3. The sale agreement dated 05.03.2006 is placed before this Court for security and the same will exemplify the genuineness of the said agreement beyond any doubt. No prejudice will be caused to the respondents in case the said agreement is placed before this Court for security. The said agreement definitely will falsely all the suspicious circumstances alleged by the respondents in their written statements. Hence, it is just and necessary that the sale agreement has to be sent for the file of this case. Otherwise petitioner will be put to serious and hardship.

II. Brief Averments of the Counter :-

2.1. Originally, the petitioner has filed the suit for bare injunction by suppressing earlier proceedings of DRT. This respondent also filed an application for rejection of plaint vide IA.No.170/2008 and the same was allowed by this Court and aggrieved upon the same the petitioner preferred CMA.No.3/2009 before the Sub Judge, Gudiyattam and the same was allowed. Subsequently, this respondent filed his written statement in the above suit on 19.09.2014 itself and the same was posted for trial on 11.11.2014.

2.2. The petitioner has already filed plaint in Os.No.3/2007, sale deed executed infavour of the petitioner by the Hon'ble Sub Court, Gudiyattam and possession

receipt along with the above said present suit and he claiming relief based on alleged documents. Now, once again there is no necessity to file the present application to send for the alleged agreement of sale dated 05.03.1996 to this Court from the Hon'ble Sub Court, Gudiyattam. The petitioner is the party to the suit in OS.No.3/2007 and he is the plaintiff in the said suit and he has got right to obtain certified copy of the agreement of sale from the Hon'ble Sub Court, Gudiyattam and file the same before this Court if necessary. The intentions of the petitioner is only to drag the proceedings and filed petition by petition with technicalities and successfully prolong the case without contest for the past 14 years and thereby harass this respondent to grab the suit property. Hence, the present application as such filed by the petitioner is not at all maintainable under law.

2.3. After long time the petitioner filed an application to amend the plaint for relief of declaration and injunction and alternative relief of possession and this respondent also filed suitable counter and the said application was allowed and subsequently the plaint was amended accordingly and this respondent also filed his additional written statement. Now, again the said suit was posted for trial. Again the petitioner has filed another application for amend the schedule properties and include one more property based on alleged forged and fabricated patta with false and baseless allegations and the said application also allowed and again the suit was posted for trial. Again after a long time the petitioner has filed another application to receive reply statement with false and baseless allegations and the same was also allowed and this respondent has also filed another additional written statement and once again the suit was posted for trial. Now, once again the petitioner has filed the

present petition in order to drag the proceedings with false and baseless allegations.

2.4. In the meanwhile the petitioner has failed to contest the suit and he wantonly and intentionally and deliberately left the suit was dismissed for default for two times and subsequently filed restore application and the same was allowed. The petitioner with an intention to drag the proceedings filed petition by petition and thereby harass this respondent.

2.5. The written statement filed on 19.09.2014 and after 7 years the petitioner has filed the present application with false and baseless allegations. The entire allegations set out in the affidavit is not correct and the petitioner has filed the present application only to drag the proceedings and harass this respondent. The petitioner has not assigned any valid reasons for filing the present application after 7 years. The petitioner alleged to have been claim right and title over the suit properties based on alleged plaint documents and on the same line the present petition could not be maintainable under law.

2.6 The suit itself is an abuse of process of law and the petitioner suppressed the earlier DRT proceedings regarding the suit properties and filed the present suit with vexatious allegations. The petitioner has no right or title over the suit properties and he has never been in possession and enjoyment of the same. This respondent alone is the absolute owner of the suit properties and he has been in possession and enjoyment of the same. Therefore dismiss the petition with exemplary cost.

Heard both sides and records perused

III. Points for Considerations: -

Whether the petition is to be allowed or not?

3.1. Petitioner contended that the petitioner has filed the suit for bare injunction suit the respondents stated in their written Statement is that the said sale agreement dated 05.03.2006 is an “antedated and fabricated” document. So, petitioner have to prove the genuineness of the said sale agreement dated 05.03.2006. The entire case revolves around the genuineness of the same agreement dated 05.03.2006. Hence, the said sale agreement has to be sent for from the file of Gudiyattam Sub Court OS.3/2007 to the file of this Court. The sale agreement dated 05.03.2006 is placed before this Court for security and the same will exemplify the genuineness of the said agreement beyond any doubt. No prejudice will be caused to the respondents in case the said agreement is placed before this Court for security. The said agreement definitely will falsely all the suspicious circumstances alleged by the respondents in their written statements. Hence, it is just and necessary that the sale agreement has to be sent for the file of this case. Otherwise petitioner will be put to serious and hardship.

3.2. Respondents contended that the petitioner has filed the present application with false and baseless allegations. The entire allegations set out in the affidavit is not correct and the petitioner has filed the present application only to drag on the proceedings and harass this respondent. The petitioner has not assigned any valid reasons for filing the present application after 7 years. The petitioner alleged to have been claim right and title over the suit properties based on alleged plaint documents and on the same line the present petition could not be maintainable under law.

3.3. Considering the rival submissions on both sides that the petitioner relied

that the sale agreement dated 05.03.2006 is important to prove the genuineness of the said sale agreement. The entire case revolves around the genuineness of the said document which is filed in Hon'ble Sub Court, Gudiyattam in OS.No.3/2007. Hence prayed to call for the said sale agreement. However the petitioner not explained unreasonable delay or expense to obtain delay authenticated copy of the sale agreement from the Hon'ble Sub Court gudiyatham and not explained only production of original is necessary for his case, there is no substance in the application and it deserves to be dismissed.

In the result, this petition is dismissed no order as to cost.

Directly Dictated to Steno typist, typed by her corrected and pronounced by me in the open Court on this the 8th day of November 2022.

**District Munsif,
Gudiyattam.**

Petitioner side Witnesses and Exhibits :- Nil
Respondents side Witnesses and Exhibits :- Nil

**District Munsif,
Gudiyattam.**