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CRP. Nos.611 & 613 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:06.08.2025

Pronounced on: 08.08.2025

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

**CRP. Nos.611 & 613 of 2023
and CMP No.4879 of 2023**

1.Nallianna Gounder
2.Suresh Kumar
3.Anand Kumar

Petitioners in both CRPs

Vs

1.Kaaliammal
2.Subramani
3.Annadurai
4.Devarasu
5.Pappathi

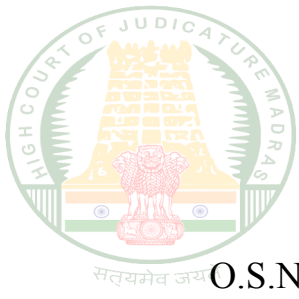
Respondents in both CRPs

COMMON PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 27.01.2023 made in I.A. Nos.6 & 5 of 2023 in O.S. No.177 of 2011 on the file of the District Munsif Court at Parmathy.

For Petitioners : Mr.T.L.Thirumalaisamy
in both CRPs

For Respondents : Mr.S.Senthil for R1 to R5
in both CRPs

COMMON ORDER



The plaintiff, aggrieved by the order in IA.Nos.5 and 6 of 2023 in O.S.No. 177 of 2011 are the revision petitioners.

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2. I have heard Mr. T.L.Thirumalaisamy, learned counsel for the revision petitioners and Mr.S.Senthil learned counsel for respondents 1 to 5.

3. I.A.No.5 of 2023 was taken out by the plaintiffs for impleading petitioners 2 and 3 as plaintiffs 2 and 3 in the suit. The said Application was filed under Order I Rule 10 of the Code of Civil Procedure. I.A.No. 6 of 2023 was filed as a consequence to I.A.No.5 of 2023, seeking to recognize the power agent of the third petitioner to conduct the suit on behalf of the third petitioner. The said Application was filed under Order III Rule 2 Code of Civil Procedure. The Trial Court dismissed both the Applications, as against which the present revisions have been preferred.

4. The learned counsel for the revision petitioners, Mr.T.L.Thirumalaisamy would submit that the suit has been filed by the father of the first petitioner for relief of declaration of title and for



permanent injunction, pleadings were also complete and trial commenced. It is contended by the learned counsel for the petitioners that during cross-examination of P.W.1, the respondents confronted the witness with the settlement deed dated 10.04.2017 executed by the first petitioner in favor of the second petitioner. The said document was also marked as Exhibit B1.

5. A suggestion has been put to P.W.1 that in view of the said settlement deed, the father had no subsisting rights in the suit property and consequently, not entitled to any relief in the said suit. The learned counsel would therefore state that only because of the said developments during cross-examination of P.W.1, the Applications in IA.No.5 & 6 of 2023 were necessitated. He would further state that in order to adjudicate the issues that arise for consideration in the suit, the present owners, viz., the petitioners 2 and 3, have to be necessarily impleaded as they have rightly stepped into the shoes of their father, the first petitioner.

6. The learned counsel would also state that no prejudice would be

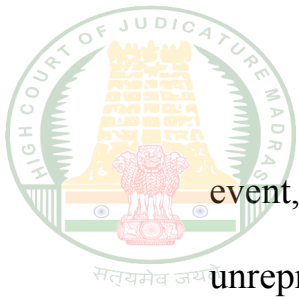


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caused to the respondents/defendants since the suit has been filed for declaration of title of the first petitioner and for consequential permanent injunction.

7. Per Contra, the learned counsel for the respondents, Mr.S.Senthil, would state that the first petitioner ought to have voluntarily disclosed the factum of the settlement deed, in and by which he lost all his rights in the suit property. It was only when the defendants confronted the first petitioner with the registered settlement deed during cross-examination, the first petitioner admitted to the said fact and immediately thereafter, he has taken out the present Applications.

8. The learned counsel would also rely on the decision of the Hon'ble Supreme Court in ***H. Anjanappa and others vs A.Prabhakar and others***, reported in ***(2025) SCC Online SC 183***, where the Hon'ble Supreme Court has held that a transferee *pendente lite* is not entitled to come on record as a matter of right and if a transferee *pendente lite* does not ask for leave to come on record, then it would be at his peril and the suit may be improperly conducted by the plaintiff on record and in such



event, he would be bound by the judgment, though he remains unrepresented. The Hon'ble Supreme Court has further held that even a transferee *pendente lite* being an assignee of interest in the property as envisaged under Order XXII Rule 10 CPC, can seek the leave of the Court to come on record on his own or at the instance of either party to the suit.

9. The Trial Court has dismissed the Applications on the ground that the Applications are belated and even when an earlier revision was filed by the first petitioner, the factum of the settlement deed has been suppressed and permitting the Applications to be impleaded would amount to filling up the lacunae. The Trial Court has also found that only to protract the proceedings, the Applications have been taken out.

10. I have carefully considered the submissions advanced by the learned counsel on either side. I have also gone through the order that is impugned in the present revision petitions.

11. It is an admitted position that the settlement deed has been



executed as early as on 10.04.2017 in favour of petitioners 2 and 3.

Neither the first petitioner nor the petitioners 2 and 3 chose to bring it to the notice of the Court that there has been such a settlement deed in and by which title has been transferred from the first petitioner to the petitioners 2 and 3. As rightly pointed out by the Trial Court, when the 1st petitioner challenged an order in an Application seeking appointment of Commissioner in I.A.No. 247 of 2017 before this Court also, the 1st petitioner has not chosen to disclose the factum of he having executed a settlement deed.

12. In fact, I find that much water has flown thereafter and the trial has proceeded with in the suit. Obviously, the petitioners have taken a risk by not bringing it to the notice of the Court that the property has been settled by the first petitioner to the petitioners 2 and 3. The First petitioner has consciously entered the witness box and chosen to lead evidence and subjected himself to cross examination as well. It is not a case where the property has gone out of the family but where a father has only settled the property in favor of the children, viz., the petitioners 2 and 3. Therefore, it is not open to the petitioners to contend that only because of the

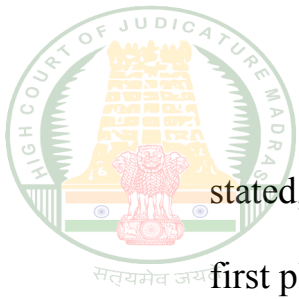


questions put in cross examination, the Applications have been necessary.

If really the petitioners had intended to bring to the notice of the Court that the suit property has already been settled in favor of petitioners 2 and 3, necessary Applications ought to have been filed immediately after the settlement deed came to be executed in the year 2017.

13. As held by the Honourable Supreme Court in *H. Anjanappa's* case, (referred herein supra), the impleadment is not a matter of right and though there was an avenue open to the petitioners 2 and 3 to seek impleadment much earlier, they have consciously waived their right and after admissions in cross examination were extracted by the defendants, the attempt to implead the petitioners 2 and 3 is clearly an attempt to fill up the lacunae.

14. The Trial Court has rightly factored all relevant material circumstances in coming to the conclusion that the petitioners 2 and 3 cannot be impleaded at this belated stage. Insofar, as the contention regarding the transferor *pendente lite* losing interest in the subject matter of litigation also, cannot be raised in the present revision since as already



stated, the settlement is within the family and any decision in favor of the first plaintiff would bind the settlees as well.

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15. In view of the above, I do not find any infirmity in the order of the Trial Court warranting interference under Article 227 of the Constitution of India. Accordingly, these Civil Revision Petitions are dismissed. Consequently, connected Miscellaneous Petition is also closed.

No costs.

08.08.2025

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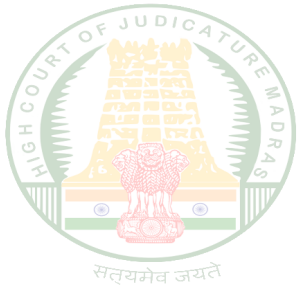
Index : Yes / No

Internet : Yes / No

To:

The District Munsif,
Paramathy.

P.B.BALAJI, J.,



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Pre-delivery order in
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