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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On: 17-11-2026	Delivered on: 19-11-2026

CORAM

THE HON'BLE MR JUSTICE N.ANAND VENKATESH

Civil Revision Petition No.4571 of 2023
& CMP.No.27373 of 2023

CNR:{HCMA012101532023}

Case QR

Naresh M Mehta
Trustee of Mehta Family Trust,
Trustee of Mehta Diamond Trust,
94, Poes Garden, Chennai 600 086

...Petitioner

Vs

1. Tuhin T Mehta
   Trustee of Tushaar S Mehta
   Charitable Trust, B1201
   Nagarjuna Meadows,
   82 Doddaballapur Main Road,
   Yelahanka, Bangalore 560 064

2. Rohan T Mehta
   151 Lexington Avenue,
   Apartment 8F
   New York, NY 10016

   Surendra M Mehta (Deceased)

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3. Abhay S Mehta
Trustee of Mehta Family Trust,
Trustee of Mehta Diamond Trust,
Flat No.4AB, Ankara No.13,
Gilchrisht Avenue,
Off Harrington Road,
Chennai 600 031

4. Sri RajaRajeshwari Hotels (Chennai)
Pvt Ltd., Rep. by its Managing
Director Mr.ACS.Arunkumar,
having office at No.43,
C.P.Ramaswamy Road,
Abiramapuram,
Chennai 600 018

5. Mehta Jewellery
Rep. by Abhay S Mehta &
Naresh M Mehta having office
at No.43, C.P.Ramaswamy Road,
Abiramapuram, Chennai 600 018.

...Respondents

PETITION under Article 227 of The Constitution of India against the order dated 15.9.2023 in I.A.No.2 of 2023 in O.S.No. 606 of 2020 on the file of the 21st Additional Judge, City Civil Court at Allikulam, Chennai.

For Petitioner: Ms.L.Maithili &
Ms.Nivedita R.Mehta

For Respondents: Mr.Roshan Balasubramanian
for R1 & R2
Mr.B.Radhakrishnan for R4
R3 & R5 – Served & No Appearance

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ORDER

This civil revision petition has been filed under Article 227 of The Constitution of India against the fair and decretal order dated 15.9.2023 in I.A.No.2 of 2023 in O.S.No.606 of 2020 on the file of the 21st Additional Judge, City Civil Court at Allikulam, Chennai (for short, the Court below) wherein the application filed by the petitioner/D3 under Order VII Rule 11 of the Civil Procedure Code (CPC) came to be dismissed.

2. Heard the learned counsel for the petitioner, the learned counsel appearing for respondents 1 & 2 and the learned counsel appearing for the fourth respondent.

3. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned order.

4. Respondents 1 & 2, who are the plaintiffs, filed the suit originally before this Court in C.S.No.574 of 2013 seeking for the relief of declaration to declare the Memorandum of Understanding

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-cum-deed of family settlement (for short, the MoU) dated 13.1.2006 as null and void and non-est in law and also to declare the deed of family settlement dated 03.4.2006 as null and void and non-est in law and for other consequential directions.

5. Later, the suit that was originally filed before this Court was transferred to the file of the Court below and renumbered as O.S. No.606 of 2020.

6. In the said suit, the petitioner/D3 filed the said application seeking to reject the plaint on the ground that there was no cause of action for filing the said suit and that the relief sought for in the said suit was hopelessly barred by limitation.

7. The Court below, after considering the rival contentions, dismissed the said application on the ground that the limitation in the present case was a mixed question of law and fact, which could not be decided in the said application; that apart from that, the pleadings made in the plaint made out a cause of action; and that it was not barred by any law. Aggrieved by that, the above revision

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has been filed before this Court.

8. The main ground that was urged on the side of the petitioner/D3 is that respondents 1 and 2/plaintiffs were parties to the MoU dated 13.1.2006 and the deed of family settlement dated 03.4.2006; that they could not be allowed to question those documents after being parties to those documents and seek for unsustainable reliefs; that in any event, the documents of the year 2006 could not be questioned in the year 2013; that the said suit was hopelessly barred by limitation; that in view of the same, there was no cause of action for respondents 1 and 2/plaintiffs to file the said suit; that reliefs sought for in the said suit were hopelessly barred by limitation; and that the suit itself was a clear abuse of process of law.

9. Per contra, the learned counsel appearing for respondents 1 and 2/plaintiffs submitted as follows:

(i) The suit property absolutely belonged to a family trust under a deed of declaration of trust dated 14.5.1992, in which, the father of respondents 1 & 2/plaintiffs was also shown as a

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permanent trustee and was also a beneficiary to have a share in the corpus and the funds of the trust. On demise of their father, respondents 1 & 2/plaintiffs became the surviving beneficiaries. By virtue of the MoU dated 13.1.2006, the beneficial interest of respondents 1 & 2/plaintiffs was taken away without the permission of the Court. If there was no beneficial interest available to respondents 1 & 2/plaintiffs, there was no requirement of executing a deed of family settlement dated 03.4.2006 releasing 25% of the share.

(ii) Both the documents were mutually exclusive and the documents themselves were in violation of Section 53 of the Indian Trusts Act, 1882 since no permission was taken from the Court. Even otherwise, those documents were executed under undue influence and breach of trust by taking advantage of the demise of the father of respondents 1 & 2/plaintiffs on 27.9.2005. Section 10 of the Limitation Act would apply and such suit would not be barred by the law of limitation. The impugned order passed by the Court below did not require the interference of this Court.

10. On a careful reading of the averments made in the plaint,

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it is seen that respondents 1 & 2/plaintiffs are originally the beneficiaries on the demise of their father and are the trustees for the purpose of the suit property, which belongs to the trust. On 14.5.1992, the Mehta family trust deed was executed and the permanent trustees were defendants 1 to 3 and the father of respondents 1 and 2/plaintiffs. The family group of respondents 1 & 2/plaintiffs was given 24% share out of the benefits in the trust.

11. As per the trust deed, if a beneficiary dies intestate, the surviving beneficiaries in the family group will become the beneficiaries under the deceased and they can share both the benefit as well as the corpus in the trust. The accumulated funds of the deceased beneficiary will be taken by his legal heirs. As per the plaint, during April 2005 to September 2005, disputes arose between the father of respondents 1 & 2/plaintiffs and the petitioner/D3, which revolved around the introduction of the 1st respondent/1st plaintiff into the business as a trustee of the trust. The father of respondents 1 & 2/ plaintiffs died on 27.9.2005. Thereafter, on 13.1.2006, the MoU was executed. This document virtually takes away the beneficial interest of respondents 1 & 2/

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plaintiffs from the trust and the same is taken over by the other trustees.

12. According to respondents 1 & 2/plaintiffs, the beneficial interest cannot be knocked off by a trustee without the permission of the Court under Section 53 of the Indian Trusts Act, 1882.

13. Apart from that, it has been pleaded that the document dated 13.1.2006 was not as per the terms of the trust deed and that such a document came to be executed by playing fraud and breach of trust. It has been further pleaded that if respondents 1 & 2/ plaintiffs did not have any beneficial rights by virtue of the said MoU, there was no need for execution of the subsequent family settlement deed dated 03.4.2006 and settling 25% in the immovable property at T.Nagar. Even assuming that such a family settlement deed was executed, it would require the permission of the Court.

14. Respondents 1 & 2/plaintiffs have specifically pleaded that since the said suit is primarily one against the trustees for the

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purpose of following the trust property and the proceeds thereof into their hands, no limitation will be applicable in view of Section 10 of the Limitation Act.

15. In the case in hand, respondents 1 & 2/plaintiffs are questioning the legality of the MoU dated 13.1.2006 and the deed of family settlement dated 03.4.2006 on the ground that these documents are in violation of the provisions of the Indian Trusts Act, 1882. Their further case is that Section 10 of the Limitation Act will apply and that therefore, no period of limitation can be fixed when it involves the trust property.

16. Certainly, these issues will require recording of evidence and the Court below has to primarily deal with the issue as to whether a trust property is involved in this case and if so, whether the property concerned has been distributed/released in accordance with the provisions of the Indian Trusts Act, 1882. Even though the impugned order passed by the Court below had not provided sufficient reasons, the Court below found that the issue of limitation was a mixed question of law and fact and that the said suit was not

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barred by any law. In so far as the issue of cause of action was concerned, it was a bundle of facts, which would require independent consideration after recording of evidence. This Court does not find any ground to interfere with the impugned order passed by the Court below.

17. In the light of the above discussions, the civil revision petition is dismissed and the impugned order dated 15.9.2023 in I.A.No.2 of 2023 in O.S.No.606 of 2020 on the file of the 21st Additional Judge, City Civil Court at Allikulam, Chennai is sustained. It is left open to the petitioner/D3 to raise the same ground before the Court below and it shall be dealt with by framing specific issues, on its own merits and in accordance with law based on the evidence let in by both sides. There shall be a direction to the 21st Additional Judge, City Civil Court, Chennai to dispose of O.S.No.606 of 2020 within a period of nine months from the date of receipt of a copy of this order. No costs. Consequently, the connected CMP is also dismissed.

19-11-2026

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To
The Registrar,
City Civil Court, Chennai.

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N.ANAND VENKATESH,J

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