

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :31.07.2015

CORAM

THE HONOURABLE MR. JUSTICE M. DURAISWAMY

C.R.P.(PD)No.3076 of 2015 &
M.P.No.1 of 2015

1.P.Navaneetham
2.P.Balamurugan
3.P.Hariharan
4.P.Kannan
5.P.Narayanan
6.P.Sasikumar

... Petitioners

v.

1.Rahamatullah Basha
2.Park Town Benefit Fund Ltd.,
Represented by its Chairman
Having Office at
No.223, Mint Street,
Chennai – 600 003.

3.V.Samannan

4.Ganesh

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 20.03.2015 made in I.A.No.9828 of 2014 in O.S.No.9005 of 2010 on the file of III Additional City Civil Court, Chennai

For Petitioner : Mr.D.Prabhu Mukunth Arunkumar_

ORDER

Challenging the fair and final order passed in I.A.No.9828 of 2014 in O.S.No.9005 of 2010 on the file of III Additional Judge, City Civil Court, Chennai, the defendants 5 to 10 have filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No.9005 of 2010 for recovery of possession, for damages and for use and occupation. The said suit is filed in the year 2007 and in the year 2010, the defendants filed their written statement. Thereafter, in the year 2014, the defendants filed an application in I.A.No.9828 of 2014, under Order VII, Rule 11 of CPC to reject the plaint. In the affidavit filed in support of the application, the defendants have stated that there is no cause of action for the filing of the suit and therefore, the suit filed by the plaintiff is liable to be rejected.

3. The Trial Court, after taking into consideration the case of both the parties, dismissed the application finding that the issues involved in the application under Order VII, Rule 11 of CPC can be decided only after the examination of the parties.

4. It is true that the finding of the Trial Court is correct for the reason that the contention raised by the defendants in the application under Order VII, Rule 11 of CPC can be decided only after full-fledged trial in the

suit. That apart, the present application under Order VII, Rule 11 of CPC was filed after a lapse of seven years. The defendants should have filed the application at the earliest point of time to reject the plaint.

5. In these circumstances, I do not find any error or irregularity in the order passed by the Trial Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Since the suit is pending from 2007, I direct the III Additional Judge, City Civil Court, Chennai, to dispose of the suit in O.S.No.9005 of 2010, on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order this order. The Trial shall also decide the issues involved in the application filed under under Order VII, Rule 11 of CPC , at the time of deciding the suit.

With these observations, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : No
Internet : Yes

31.07.2015

Rj

To

The III Additional Judge,
City Civil Court,
Chennai,

M. DURAISWAMY,J.,

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