

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2015

CORAM

THE HONOURABLE MS.JUSTICE R.MALA

CRP (PD).No.3233 of 2015

and

M.P.No.1 of 2015

1.K.Pushpa

2.K.Vikram

.. Petitioners

Vs

1.Lalitha

2.The Manager,
M/s.Stock Holding Corporation of India Ltd.,
Centre Point, Unit No.301, 3rd Floor,
Dr.Ambedkar Road, Parel, Mumbai.

3.The Manager,
Rural Electrification Corporation Ltd.,
Core-4, SCOPE Complex,
7, Lodhi Road, New Delhi
and
No.12 and 13 TNHB Complex,
Luz Chuch Road, Mylapore,
Chennai - 4.

4.The Manager,
Punjab National Bank
21, Raja Annamalai Road,
Purasaiwalkam, Chennai - 84.

5.The City Union Bank,
Triplicane Branch, Chennai.

6.The Post Master,
Triplicane High Road,
Chennai.

7.The Manager,
Dena Bank,
No.105, Near Sarmani Hotel
G.P.Road, Mount Road,
Chennai - 600 002.

.. Respondents

Prayer:Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 23.06.2015 passed in I.A.No.13680 of 2014 in O.S.No.3681 of 2014 on the file of the VII Assistant City Civil Court, Chennai.

For Petitioners : Mr.Ravichandra Sundaresan

ORDER

The Civil Revision Petition is filed against the fair and decreetal order dated 23.06.2015 passed in I.A.No.13680 of 2014 in O.S.No.3681 of 2014 on the file of the VII Assistant City Civil Court, Chennai.

2.The first respondent who is the sister of the first defendant/first petitioner as a plaintiff filed a suit in O.S.No.3681 of 2014 for permanent injunction restraining the defendants 3 to 8 from making any payments or permit to withdrawal from the bank accounts, fixed deposits, share and bonds as specified in the schedule herein in the name of the Late B.Vimal Chand Singhvi to the first and second defendant, their men, agents, servants or any

person claiming under or through them without knowledge of the plaintiff. During pendency of the suit, the defendants 1 and 2 filed an application in I.A.No.13680 of 2014 to reject the plaint in O.S.No.3861 of 2014 and dismissed the suit as not maintainable. The trial Court, after hearing both sides, dismissed the application. Challenging the same, the present revision petition has been preferred by the defendants.

3.Learned counsel for the revision petitioners submitted that the prayer in the suit itself is negative in nature and hence the suit is not maintainable. It is further submitted that it is clear abuse of process of Court since the plaintiffs neither filed the succession petition nor filed a suit for partition. That factum was not considered by the Trial Court. hence, he prayed for setting aside the order passed by the Trial Court in I.A.No.13680 of 2014

4.At the time of admission, argument of the learned counsel for the revision petitioners is heard in length and notice to the respondents is dispensed with.

5.The first respondent as a plaintiff filed a suit in O.S.No.3681 of 2014 for permanent injunction restraining the defendants 3 to 8 from making any payments or permit to withdrawal from the bank accounts, fixed deposits,

shares and bonds as specified in the schedule herein in the name of the Late B.Vimal Chand Singhvi to the defendants 1 and 2, their men, agents, servants or any person claiming under or through them without knowledge of the plaintiff. The said B.Vimal Chand Singhvi while he was alive has deposited the amount in the bank, fixed deposits, shares and bonds and he died intestate. Now, the first defendant/first petitioner herein who is one of the daughter of the said B.Vimal Chand Singhvi and her son has attempted to withdraw the amount. Hence, the first respondent/plaintiff was constrained to file a suit for injunction.

6.Now the point to be decided is whether application under Order VII Rule 11 of CPC is maintainable? At this juncture, it is appropriate to incorporate Order VII Rule 11 of CPC, which is as follows:

"11.Rejection of plaint.__The plaint shall be rejected in the following cases:—

- (a) where it does not disclose a cause of action;
- (b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;
- (c) where the relief claimed is properly valued, but the plaint is written on paper insufficiently stamped, and the plaintiff does not make good the deficiency within the time, if any, granted by the Court.

(d) where the suit appears from the statement in the plaint to be barred by any law;

[(e) where it is not filed in duplicate; (f) where the plaintiff fails to comply with the provisions of rule 9];

[Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-papers shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-papers, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.]"

7. But as already stated, the prayer is not negative in nature because the suit has been filed for permanent injunction restraining the defendants 3 to 8 not to make any payments or permit to withdrawal from the bank accounts, fixed deposits, shares and bonds by the defendants 1 and 2. In such circumstances, the argument advanced by the learned counsel for the petitioners that the suit prayer is negative in nature does not merit acceptance. Further, whether it is abuse of process of Court has to be decided only at the time of trial because one of the heir of late B. Vimal Chand Singhvi has attempted to withdraw the amount, without obtaining succession certificate the amount shall not be withdrawn from the bank since it is an unsecured amount and therefore, she was constrained to file a suit.

Therefore, I am of the view that the Trial Court in its order has correctly held that the application itself is not maintainable and dismissed the application. Hence, I do not find any merits to interfere with the order passed by the Trial Court and it is hereby confirmed. Accordingly, the Civil Revision Petition is deserves to be dismissed.

8.In the result, the Civil Revision Petition is dismissed. No costs.
Consequently, connected Miscellaneous Petition is closed. No costs.

23.11.2015

Index: Yes/No
Internet: Yes/No
cse

To

The VII Assistant City Civil Court, Chennai.

R.MALA. J.,

cse

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