

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.12.2015

CORAM

THE HONOURABLE MS. JUSTICE R.MALA

C.R.P.(PD).No.3735 of 2015
& M.P.No.1 of 2015

John Kennedy

.. Petitioner

Versus

1.Dr.Judie

2.The Manager,

ICICI Bank Home Loan,

Adyar Branch,

Adyar, Chennai.

.. Respondents

Prayer: Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and decreetal order dated 03.06.2015 made in I.A.No.6811 of 2015 in O.S.No.226 of 2015 on the file of the XIV Assistant City Civil Court, Chennai.

For Petitioner

:

Mr.Ravichandran Sundaresan

ORDER

The Civil Revision Petition is filed against the fair and decreetal order dated 03.06.2015 in I.A.No.6811 of 2015 in O.S.No.226 of 2015 on the file of the XIV Assistant City Civil Court, Chennai.

2.At the time of admission, argument of the learned counsel for the petitioner is heard in length.

3.The first respondent, who is the plaintiff filed a suit in O.S.No.226 of 2015 for permanent injunction restraining the first defendant / petitioner, his

agent of his subordinate under his control or any one acting on his behalf from alienating, encumbering the property more fully described in the schedule mentioned property and also restraining the second defendant or his subordinates or any one acting on their behalf from releasing the sale deed bearing document No.249 of 2002 dated 23.01.2002, which was mortgaged under mortgage Loan No.LBCHE00000709909 dated 21.02.2004 with the second defendant / Bank to the first defendant.

4.During pendency of the suit, the revision petitioner herein, who was arrayed as first defendant in the suit, filed an application in I.A.No.6811 of 2015 under Order VII Rule 11 of C.P.C. for rejection of the plaint stating that the Civil Court has no jurisdiction to try the suit. The trial Court, after considering the objection raised by the plaintiff / first respondent, dismissed the application, against which, the present revision petition is preferred by the first defendant/revision petitioner.

5.On perusal of the typed set of papers, it reveals that the first respondent / plaintiff herself has filed a suit stating that the first defendant / revision petitioner mortgaged the sale deed bearing document No.249 of 2002 dated 23.01.2002 under mortgage Loan No.LBCHE00000709909 dated 21.02.2004 with the second defendant / second respondent. Now, the revision

petitioner / first defendant has filed the application in I.A.No.6811 of 2015 for rejection of the plaint stating that the suit property is situated within the jurisdiction of the Ambattur Taluk and this Court has no jurisdiction to decide the matter, the first defendant / revision petitioner ought to have filed the application to decide the said issue as to whether the Trial Court has jurisdiction to entertain the suit, not for rejection of plaint.

6.Under the aforestated circumstances, the application for rejection of the plaint in O.S.No.226 of 2015 is not maintainable. For want of jurisdiction, the revision petitioner / first defendant may very well work out his remedy before the trial Court to return the plaint. If that Court has no jurisdiction to decide the matter, it can present the plaint before the Court which is having jurisdiction to entertain the suit. So, the revision petitioner / first defendant has filed the application only to drag on the proceedings. The trial Court has considered all the aspects in proper perspective and came to the correct conclusion. The order passed by the trial Court does not suffer any infirmity or illegality and it is hereby confirmed. Hence, Civil Revision Petition is dismissed as devoid of merits. No costs. Consequently, connected Miscellaneous Petition is closed.

14.12.2015

Index : Yes / No
Internet : Yes / No
sri

R.MALA,J.

sri

To

XIV Assistant City Civil Court, Chennai.

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