

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2015

CORAM:

THE HON'BLE MR. JUSTICE D.HARIPARANTHAMAN

C.R.P.No.3931 of 2015
and
M.P.No.1 of 2015

1.M.Saradha

2.U.Portselvi

3.S.Ilavarasi

4.P.Sharmila Petitioners/Petitioners/
Defendants 2 to 5

Vs.

1. P.Selvakumar @ J.P.Selvakumar

.... 1st Respondent/1st Respondent
/Plaintiff

2. The Sub Registrar
SRO, Purasawakkam
Chennai - 600 007.

.... 2nd Respondent/2nd Respondent/
6th Defendant

Prayer:

Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal dated 11.08.2015 made in I.A.No.8558 of 2015 in O.S.No.3102 of 2011 on the file of the Ist Assistant Judge, City Civil Court, Chennai.

For Petitioners : Mr.V.Bhiman
for Mr.V.Mani

ORDER

The revision petitioners are the defendants 2 to 5 in O.S.No.3102 of 2011 on the file of the Ist Assistant Judge, City Civil Court, Chennai. The 1st respondent herein is the plaintiff in the aforesaid suit.

2. The said suit was filed by the 1st respondent/plaintiff seeking to declare the settlement deed dated 28.10.2010 executed by the 1st defendant in favour of the defendants 2 to 5 under threat and coercion on the file of SRO, Purasawakkam, Chennai - 7, as null and void and for permanent injunction restraining the defendants 1 to 5 their agent, executors or any one through them from interfering with their peaceful possession and enjoyment of the suit property or in any way alienating or encumbering the suit property.

3. While so, the revision petitioners filed an application in I.A.No.8558 of 2015 in O.S.No.3102 of 2011 under Order VII Rule 11 CPC to reject the plaint. The Trial Court passed an order dated 11.08.2015 rejecting the application in I.A.No.8558 of 2015 in O.S.No.3102 of 2011 and aggrieved against the said order, the present Civil Revision Petition has been filed.

4. Heard the learned counsel appearing for the petitioners.

5. It is the contention of the revision petitioners that the plaintiff is not the legal heir of the deceased first defendant. However, according to the plaintiff, he is the legal heir of the deceased first defendant. Hence, the Trial Court came to the conclusion that the point whether the plaintiff is the legal heir or not has to be decided only at the time of the trial and so, the suit cannot be rejected merely based on the allegation made by the revision petitioners.

6. Secondly, it was contended by the revision petitioners that the suit was not properly valued and appropriate Court fee has not been paid. The said contention was also rejected by the Trial Court holding that the suit was valued under Section 25(d) of Tamil Nadu Court fees and suit valuation Act at Rs.1000/- and accordingly, the Court fee was paid. The Trial Court also took note of the fact that the prayer was only to declare the settlement as null and void and that the plaintiff is not a party to the settlement and hence, held against the revision petitioners stating that the suit was properly valued.

7. Thirdly, the revision petitioners contended that notice as prescribed under Section 80 CPC was not issued and hence, the entire suit has to be rejected. The said contention was partly accepted by the Trial Court holding that for non-issuance of notice under Section 80 CPC, the suit will be dismissed as

against the 6th defendant, particularly when no application was filed to dispense with the issuance of notice under Section 80 CPC. Hence, instead of dismissing the suit as a whole, it was dismissed against the 6th defendant and to that extent the application was allowed.

8. I view of the aforesaid facts and circumstances, I do not find any infirmity in the order of the Trial Court dated 11.08.2015 made in I.A.No.8558 of 2015 in O.S.No.3102 of 2011 and hence, I am not inclined to interfere with the said order.

9. Accordingly, the Civil Revision Petition fails and the same is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1.The Ist Assistant Judge,
City Civil Court, Chennai.

2.The Sub Registrar,
SRO, Purasawakkam,
Chennai - 600 007.

+1cc to M/s.V.Mani, Advocate, S.R.No.54138

C.R.P.No.3931 of 2015

SAI (CO)
CA(20/10/2015)

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