

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2015

CORAM

THE HONOURABLE MS. JUSTICE R.MALA

C.R.P.No.4066 of 2015

and

M.P.No.1 of 2015

1. Vasanthi
2. Kolanchiappan ...Petitioners

vs

R.Saravanan ...Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 24.04.2015 made in I.A.No.1095 of 2014 in O.S.No.72 of 2014 by the learned District Munsif, Jayankondam.

For Petitioners : Mr.M.Manikandhan

ORDER

Heard the learned counsel appearing for the petitioners.

2. The petitioner has come forward with this Revision challenging the impugned order passed on 24.04.2015 in I.A.No.1095 of 2014 in O.S.No.72 of 2014 by the learned District Munsif, Jayankondam, dismissing the application filed under Order VII Rule 11 C.P.C.

3. The learned counsel appearing for the petitioners would submit that the respondent, as plaintiff, filed suit for bare injunction in respect of 12 cents of property stating that he has purchased the same from one Subramanian and he is in possession and enjoyment of the same for more than 17 years and the first defendant attempted to interfere with his peaceful possession and enjoyment, as if she purchased the property and hence, the plaintiff is constrained to file the suit for bare

injunction.

4. Resisting the same, the petitioners herein/defendant have filed a detailed written statement stating that the oral sale alleged by the plaintiff is not true and he is not in possession and enjoyment of the same and the property has been purchased by the husband of the first petitioner in the year 1990 from the original owners Subramanian and his son Tamil Mani, who have executed an unregistered sale deed and from that date onwards, they are in possession and enjoyment of the same and on 06.01.2014, a sale deed has been executed in favour of the first petitioner by the second petitioner herein, who is the grandson of Subramanian and joint patta has also been changed in their name, but the documents viz., house tax receipts etc., have been fabricated and filed by the plaintiff and hence, they prayed for dismissal of the suit.

5. It is further submitted that the petitioners herein have also filed an application for rejection of the plaint, stating the plaintiff has filed the suit only on the basis of the fabricated documents. Hence, they prayed for rejection of the plaint also. The plaintiff, as respondent, has filed a detailed counter. The trial Court, after considering both sides dismissed the application for rejection of plaint, against which the present Revision has been filed.

6. At the time of admission, argument of the learned counsel for the petitioners is heard in length. The learned counsel for the petitioners submitted that as the plaintiff has filed the suit for bare injunction on the basis of the fabricated documents, the petitioners/defendants filed an application under Order VII Rule 11 CPC seeking rejection of the plaint and the trial Court, after considering both sides, dismissed the said application on the ground that none of the reasons stated under Order VII Rule 11 CPC has been specifically mentioned in the affidavit.

7. In such circumstances, it is appropriate to incorporate Order VII Rule 11 CPC, which speaks under what grounds the plaint has to be rejected.

"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 returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(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-paper 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-paper, 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.]”

8. It is not the case of the petitioners that the cause of action has not been furnished and the suit has not been properly valued and the suit is barred by any law. But the reason stated by the petitioners is that the documents filed by the plaintiff are fabricated documents and no such document is of the year 1997, however, the husband of the first defendant purchased the property under unregistered sale deed in the year 1990. In such circumstances, it is admitted by both parties

that one Subramanian, S/o.Govindan is the owner of the property. Whether the said Subramanian sold the property orally to the plaintiff in the year 1997 or to the husband of the first defendant in the year 1990 has to be decided only at the time of trial and not in the application under Order VII Rule 11 CPC. So, that factum was considered by the trial Court and came to the correct conclusion and hence, this impugned order does not warrant any interference by this Court. Hence, the Revision deserves to be dismissed.

9. At this juncture, the learned counsel for the petitioners wants earlier disposal of the case. Considering the relief now sought for, this Court is of the view that it is a fit case for giving direction to the learned District Munsif, Jayankondam, to dispose of the suit in O.S.No.72 of 2014 within a period of six months from the date of receipt of a copy of this order.

10. With the above observation, the Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mra

To

The District Munsif,
Jayankondam.

C.R.P.No.4066 of 2015
and
M.P.No.1 of 2015

PA (CO)
PSI (19/11/2015)

WEB COPY