

KIN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2015

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THE HONOURABLE MR.**JUSTICE D.HARIPARANTHAMAN**

C.R.P (NPD) No.4079 of 2015

and M.P.No.1 of 2015

R.Ramamurthy

... Petitioner

VS.

1.T.Leelavathi Ammal
2.K.T.Govindarajan
3.K.T.Meganathan
4.Kalavathy
5.Balakrishnan
6.Gunaseelan
7.K.T.Ramachandran
8.Dhanalakshmi
9.Ramesh
10.K.T.Murugan

.... Respondents

Civil revision petition has been filed under Article 227 of the Constitution of India against the order dated 27.7.2015 made in I.A.No.19920 of 2014 in O.S.No.6034 of 2011 on the file of the XVI Assistant City Civil Court at Chennai.

For petitioner : Mr.G.Jeremiah

ORDER

The revision petitioner is the defendant in O.S.No.6034 of 2011 on the file of the learned XVI Assistant Judge, City Civil Court, Chennai. The respondents herein are the plaintiffs therein. The suit was filed for a declaration declaring that the respondents / plaintiffs are the owners of the suit schedule property by adverse possession and for permanent injunction.

2. While so, the revision petitioner filed an application in I.A.No.19920 of 2014 in O.S.No.6034 of 2011 under Order VII Rule 11 C.P.C. for rejection of the plaint by raising so many grounds. But, when the matter was argued, ultimately, the revision petitioner confined his arguments only on two grounds as disclosed in the order dated 27.7.2015 made in I.A.No.19920 of 2014 in O.S.No.6034 of 2011. Those grounds are as follows:-

- (i) There is no cause of action for the suit;
- (ii) The suit was undervalued.

The Trial Court considered those two grounds in detail and held against the revision petitioner.

3. As far as the first ground is concerned, it is useful to extract para 6 of the order of the Trial Court and the same is extracted hereunder:-

" 6. On perusal of plaint, it is stated that, in the suit schedule of property the deceased Mr.Thirumal Nadar having occupied the suit property. Since from the year 1958 and thereafter he obtained license from the Corporation of Chennai and first plaintiff is running a business till date. This suit is filed for declaration that the plaintiff are the owners of the suit schedule property by adverse in possession and permanent injunction against defendant and cost of the suit. Plaintiff filed 13 documents, filed with plaint, including property fare receipts from 1987 to 1996, 2009 to 2012, Chennai Metropolitan Water and Sewerage Board cards and license fee paid by the first plaintiff to the Corporation of Chennai (28 no further in para) it is stated that the defendants are Mr.Ramamoorthy along with his 10 henchmen came to the property on 25.7.2011 and threatened first plaintiff brother is sen Mr.Paramasivam who is managing the shop

to vacate the premises immediately or otherwise he will face dire consequences. Further he stated in plaint that plaintiff 1 to 10 in continuous constructive and adverse in possession and enjoyment of the suit property and paid all taxes, complaint also given to police. "

In my view, the Trial Court gave valid reasons to hold that the cause of action was there to maintain the suit. The aforesaid finding was rendered based on the plaint.

4. The second ground is relating to undervaluation of the suit. For the first prayer, the suit was valued under Section 25(b) of the Tamil Nadu Court Fees and Suits Valuation Act and a court fee of Rs.22,500.50 was paid. As far as the second prayer is concerned, the suit was valued under Section 27(c) of the Tamil Nadu Court Fees and Suits Valuation Act and a Court of Fee of Rs.75.50 was paid. The relevant passage from the order of the Trial Court is usefully extracted hereunder:-

" 8. ... In the petition, it is stated that the plaintiff have adopted notional value for the property and not the

market value. On perusal of plaint the plaintiff values the suit for the purpose of court fee and jurisdiction at for prayer one Rs.3,00,000/- half of the market value and paid a court fee Rs.22,500.50 under Section 25(b) for the prayer No.2 valued at Rs.1,000/- and pays court fees of Rs.75.50 under Section 27(c) of Tamil Nadu Court Fees and Suit Valuation Act 1955. Prima facie the Court fee examiner examined the plaint and the enquiry about the valuation and court fee can be decided after trial on the basis of evidence let by parties. "

The Trial Court has also considered various judgments cited by the revision petitioner and rejected the application. I am not inclined to interfere with the same.

5. In the result, the order of the learned XVI Assistant Judge, City Civil Court at Chennai, dated 27.7.2015 made in I.A.No.19920 of 2014 in O.S.No.6034 of 2011 is confirmed and the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

6. Taking into account the facts and circumstances of the case and taking into account the fact that the suit is of the year 2011, while dismissing the revision petition, I direct the learned XVI Judge, City Civil Court, Chennai to dispose of the suit in O.S.No.6034 of 2011 on merits and in accordance with law, within a period of six months from the date of receipt of a copy of this order.

14.10.2015

Index:Yes/No
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To

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

D.HARIPARANTHAMAN,J.

sbi

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