

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2015

CORAM

THE HONOURABLE MS.JUSTICE R.MALA

CRP (PD).No.4422 of 2015

and

M.P.No.1 of 2015

1.S.Elavazhagan
2.T.Gunasekaran

.. Petitioners

Vs

1.Dr.Thanaraj.A
2.D.Mahalingam

.. Respondents

Prayer:Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 31.08.2015 passed in I.A.No.759 of 2014 in O.S.No.36 of 2014 on the file of the Additional District Munsif Court at Alandur.

For Petitioners : Mr.B.Dayalan

ORDER

The Civil Revision Petition is filed against the fair and decreetal order dated 31.08.2015 passed in I.A.No.759 of 2014 in O.S.No.36 of 2014 on the file of the Additional District Munsif Court at Alandur.

2.The respondents as plaintiffs filed a suit in O.S.No.36 of 2014 on the

file of the Additional District Munsif Court at Alandur for mandatory injunction restraining the first defendant to remove the offending constructions made by him by making intrusions in the common passage and other consequential reliefs. The defendants contested the suit and filed an application in I.A.No.759 of 2014 for rejection of the plaint stating that the property is situated within the jurisdiction of the City Civil Court, Chennai and not within the jurisdiction of District Munsif Court at Alandur. But the Trial Court after hearing both sides has dismissed the application. Against which, the present Civil Revision Petition has been filed.

3.The learned counsel for the petitioner mainly focusing on the point that the suit property is situated in Velachery and hence it comes within the jurisdiction of City Civil Court, Chennai. But the Trial Court has held that the property is situated in Adambakkam and hence it is within the jurisdiction of Alandur Court. On that basis, the Trial Court has dismissed the application. Hence, he prayed for setting aside the impugned order passed by the Trial Court.

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. Now the point to be decided is that whether the application under Order VII Rule 11 of CPC is maintainable since the plaintiffs are disputing the territorial jurisdiction of the Court. So, it is appropriate to incorporate Order VII Rule 11 of CPC.

"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.]"

6. Further Section 6 of CPC deals with pecuniary jurisdiction of the Court. But once the Court has no jurisdiction it will not be the reason for rejection of the plaint and that will be returned to present before the Court having jurisdiction. Even though the Trial Court has not framed any preliminary issues, it has taken much pain and incorporated Sections 16 to 20 of CPC as to which Court has jurisdiction and came to the correct conclusion. It is also fairly conceded by the learned counsel for the petitioner that Adambakkam where the suit property is situated comes within the jurisdiction of the District Munsif Court, Alandur. In such circumstances, I am of the view that the application filed under Order VII Rule 11 of CPC for rejection of the plaint itself is not maintainable and the Trial Court has rightly dismissed the application. Hence, the Civil Revision Petition deserves to be dismissed as devoid of merits.

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

26.11.2015

Index: Yes/No
Internet: Yes/No
cse

To
The Additional District Munsif Court at Alandur.

R.MALA. J.,

cse

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