

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2015

CORAM:

THE HON'BLE **MS. JUSTICE R.MALA**

C.R.P.(PD).No.4446 of 2015

and

M.P.No.1 of 2015

1.Mrs.Vimala

2.Charles

3.Pradeep Vincent

4.Marshall .. Petitioners/Petitioners/Defendants

Vs.

Board of Trustees
Rep. By Secretary
Mr.I.James

.. Respondent/Respondent/Plaintiff

Prayer:

Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 27.07.2014 made in I.A.No.17252 of 2014 in O.S.No.3179 of 2014 on the file of the learned II Assistant Judge, City Civil Court, Chennai.

For Petitioners : Mr.R.Vijayaraghaven

ORDER

Heard the learned counsel appearing for the revision petitioners.

2. The revision petitioners have come forward with the present Civil Revision Petition challenging the impugned order dated 27.07.2014 made in I.A.No.17252 of 2014 in O.S.No.3179 of 2014, wherein the application filed under Order 7 Rule 11 CPC to reject the plaint came to be dismissed.

3. The learned counsel appearing for the revision petitioners would submit that the respondent herein as plaintiff has filed the suit for permanent injunction restraining the defendants or their men from disturbing the plaintiff office of the Board of trustees or sending threatening letters, using filthy language in the office of the Trust or making personal attempts of threats to all the Trustees of Board or campaigning false propaganda by getting fraudulent signatures from the community members or disturbing the plaintiff in the work spot or residence without due process of law. As soon as the summon was received, the petitioners herein filed an application in I.A.No.17252 of 2014 under Order 7 Rule 11 CPC to reject the plaint on the ground

that there is no cause of action. It was further contended that the cause of action is only illusory and so, the plaint has to be rejected. However, the Trial Court without considering the same had dismissed the application and hence, the learned counsel for the revision petitioners prayed for setting aside the impugned order.

4. Resisting the same, the learned counsel for the respondent would submit that the respondent has filed a detailed counter and contested the application filed by the revision petitioners to reject the plaint. The Trial Court only after hearing both sides had dismissed the application and hence, the learned counsel for the respondent prayed for dismissal of the Civil Revision Petition.

5. Considered the rival submissions made by both sides and perused the typed set of papers.

6. Now this Court has to decide whether there is any cause of action for filing of the suit?

The plaintiff has filed the suit for injunction stating one Anthony Dass, who is the husband of the 1st defendant and the father of the defendants 2, 3 and 4 is a tenant in the Trust property. As he had

violated the terms and conditions of the lease agreement, the Trust issued a legal notice to quit and deliver vacant possession of the rented portion. After receipt of the notice, the defendants issued threat to the members of the Trust and sent several letters to convene the General Body meeting and hence, the plaintiff was forced to file the suit.

7. As per the proviso to Order 7 Rule 11 CPC, the plaint has to be rejected if there is non-disclosure of cause of action. So, at this juncture, it would be appropriate to consider the plaint pleading. In paragraph 12 of the plaint, the cause of action has been mentioned, wherein it was stated that the defendants issued several false and frivolous letters and on 06.06.2014, the defendants attacked the president of the Trust and are continuously disturbing the office of the Trust and its normal functioning. Thus, the cause of action has been clearly mentioned.

8. Since the husband of the 1st defendant/1st revision petitioner is a tenant and has been occupying the building without paying any rent, a legal notice was issued. However, the defendants without taking legal course, took all sorts of illegal method and attempted to

threaten the members of the Trust and hence, the plaintiff was forced to file the suit. In such circumstances, I am of the view that the cause of action mentioned in the suit is correct. Further, the Trial Court in its impugned order has considered the disputes between the parties in detail viz., the registration of a case in Royapuram Police Station and the filing of a Criminal Original petition No.15173/2004 to take action on the complaint dated 06.06.2014.

9. Considering all the above facts and circumstances, I am of the view that the Trial Court has rightly dismissed the application preferred by the revision petitioners in I.A.No.17252 of 2014 in O.S.No.3179 of 2014 filed under Order 7 Rule 11 CPC to reject the plaint. Hence, I do not find any reason to interfere with the finding of the Trial Court and consequently, the Civil Revision Petition is dismissed as devoid of merits.

10. In fine, the Civil Revision Petition stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

15.12.2015

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R.MALA, J.

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To

The learned II Assistant Judge,
City Civil Court, Chennai.

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