



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13/1/2015

C O R A M

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

C.R.P. PD(MD) No.373 of 2014

WEB COPY

1. Sundari
2. A. Anitha
3. Dileepan Raja
R. Tharanipathi

...Petitioners

Vs.

...Respondent

Petition filed under Article 227 of the Constitution of India praying to call for the records relating to the order passed by the learned Principal District Court, Virudhunagar at Srivilliputhur in O.S.No.SR.No.3622 of 2013 dated 7/10/2013 and set aside the same and direct the Principal District Court, Virudhunagar at Srivilliputhur to number O.S.SR.No.3622 of 2013 and adjudicate the same on merits.

For petitioner ... Mr.K.P.Narayanakumar
For respondents ... Mr.S.Subbiah
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Orders reserved on 8/1/2015

O R D E R

The plaintiffs/petitioners had filed the revision against the order rejecting the plaint in O.S.SR.No.3622 of 2013 on the file of the Principal District Court, Virudhunagar at Srivilliputhur.

2. The plaintiffs had filed the suit for recovery of Rs.19 lakhs from the defendant with interest. The plaint was rejected without being numbered. While returning the plaint, the Registry had mentioned certain particulars for the compliance of the same. The plaintiffs also represented after answering the requirements. However, the impugned order was passed by the Principal District Judge, Virudhunagar, rejecting the claim. Aggrieved by the same, the present Civil Revision Petition has been filed.

3. The suit itself is laid based on the agreement. The Office had returned the plaint as the said lease agreement mentioned in the suit is for a period more than a year and that the agreement ought to have been registered under Section 17 of the Registration Act.

4. It was contended by the plaintiffs that as the defendant had not objected to the document, the office need not insist on the same. But the said contention was rejected by the Court.

5. There are three documents based on which the suit has been filed. Two of the agreements were dated 15/10/2003. The stamp for the same was issued to the stamp vendor by the concerned office on 26/8/2003 and the party has purchased the stamp paper on 5/12/2003. While so, the agreement has been executed on 15/10/2003 nearly seven weeks prior to the date of the stamp paper. The dates are the same in two of the agreements. So far as the third agreement is concerned, it was said to have been executed on 15/1/2004. However, no date has been mentioned.



6. In a suit for recovery of money, two important aspects have to be looked into viz., the date of cause of action and the question of limitation. In the case on hand, there seems to be some mischief played by the plaintiffs with regard to the dates. As stated above, when the stamp paper itself was purchased on 5/12/2003, it could not have been executed a date prior to that. The fact that the defendant may not have an objection to the documents cannot be the ground for taking the plaint on file. The Principal District Judge, Virudhunagar at Srivilliputhur had rightly rejected the plaint observing that it is a vexatious litigation.

7. The counsel for the respondent contended that the very revision itself is not maintainable as the plaint has been rejected under Order 7 Rule 11. It is submitted by the learned counsel for the respondent that once the plaint is rejected, it amounts to a decree as defined in Section 2 (2) of the Code of Civil Procedure and it is appealable. However, it is not an appealable order as enumerated under Order 43 of the C.P.C. When the said order of rejection is appealable, the revision itself is not maintainable. Section 2(2) of the Code of Civil Procedure includes even a rejection of plaint.

8. The learned counsel for the petitioners contended that the order of the District Judge is not a rejection, but it is only a return of the plaint. Hence the revision is maintainable.

9. It is not the case of the petitioners that the plaint was returned along with the order. The order specifically states that "There is a duty cast on the Court to prevent and avoid vexatious litigation also. Therefore, clarification sought for and the return made by the office hold good and in view of their non-compliance, the suit cannot be numbered and therefore, the suit is liable to be rejected.

10. From the reading of the above, it is clear that the trial Court has rejected the plaint under Order 7 Rule 11 where the document is undervalued and the plaintiffs on being required by the Court to correct the valuation within the time to be fixed by this Court failed to do so. The Order is also passed under Order 7 Rule 12 by the trial Court recording the reasons. Therefore, the order cannot be deemed as a return of plaint to maintain the revision against the same. Therefore, the Civil Revision Petition as filed is not maintainable and the same is dismissed.

11. In the result, this Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To

The Principal District Court, Virudhunagar at Srivilliputhur

+1CC to M/s.S.Subbiah, Advocate in SR.1597

+1CC to M/s.K.P.Narayana Kumar, Advocate in SR.1850

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