

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2016

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

CRP (PD) No.3478 of 2014
and M.P.No.1 of 2014

M.Chinnadurai

... Petitioner

Versus

K.Natarajan

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 23.07.2014 made in I.A.No.171 of 2014 in O.S.No.1101 of 2009 on the file of II Additional District Munsif, Salem.

For Petitioner : Mr.J.Ramakrishnan

For Respondent : Mr.S.Natarajan

ORDER

The respondent filed a suit for partition and separate possession in O.S.No.1101 of 2009 before the Second Additional District Munsif, Salem. In the said suit, the petitioner filed an application in I.A.No.171 of 2014 to reject the plaint invoking Order VII Rule 11 of C.P.C. The learned Trial Judge dismissed the application on the ground that the matter requires evidence. The said order is under challenge in the Civil Revision Petition.

2. The learned counsel for the petitioner contended that the suit filed by the respondent is barred by limitation and as such, the Trial Judge was

not correct in dismissing the application to reject the plaint at the threshold.

3. I have also heard the learned counsel for the respondent.

4. The application filed by the petitioner to reject the plaint was considered by the learned Trial Judge in extenso. The learned Trial Judge was of the view that the plaint cannot be rejected at the threshold on the basis of the materials produced by the petitioner. There is no question of rejecting the plaint on the basis of materials other than the plaint. Even while considering the application under Order VII Rule 11 of C.P.C, the Court has to consider the plaint averments as a whole and to arrive at a conclusion as to whether the plaintiff has got a cause of action to file the suit. In case, there are materials to be considered even for deciding the cause of action, the proper course is to allow the plaintiff to lead evidence.

5. The order passed by the learned Trial Judge contains justifiable reasons in support of the order. I do not find any error or illegality in the order passed by the learned Trial Judge, warranting interference, by invoking the revisional jurisdiction under Article 227 of the Constitution of India.

6. In the upshot, I dismiss the Civil Revision Petition. It is open to the petitioner to raise all points before the trial Court. No costs. Consequently, connected miscellaneous petition is closed.

11.11.2016

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To

The II Additional District Munsif,
Salem.

K.K.SASIDHARAN, J.

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