

A.No.6267 of 2014**M.M.SUNDRESH, J.**

This application has been filed by the plaintiff, inter alia, seeking grant of leave to sue in the suit in respect of the suit schedule property which is situated within Kanchipuram District under Order III Rule 1 of the O.S.Rules, High Court, Madras and under the provisions of Letters Patent and under Section 120 of C.P.C. 1908 as amended upto date.

2. The learned counsel appearing for the plaintiff/applicant submits that though the suit is one on land, the principle governing forum convenience will have to be seen. All the defendants are situated within the territorial jurisdiction of this Court and the agreement has been entered within the territorial jurisdiction of this Court. Therefore, leave will have to be granted.

3. The learned counsels appearing for the respondents/defendants submit that when the suit is one on land, which is situated outside the territorial jurisdiction of this Court, there is no jurisdiction available to this Court under Clause 12 of the Letters Patent. Even the agreement has been entered at Ramapuram, which will not come within the jurisdiction of this Court. Hence, the application deserves to be rejected.

4. Primarily, the plaintiff/applicant, in the suit, has sought for three reliefs, viz., partition & separate possession, mandatory injunction and permanent injunction. There is no dispute that the suit property is admittedly situated outside the territorial jurisdiction of this Court. It is agreed at least to that extent by all the counsel. All the three prayers are with reference to the suit on land. When, once this Court does not have territorial jurisdiction over the immovable property, clause 12 would not have any application. Therefore, the question as to whether the defendants are residing within the territorial jurisdiction of this Court and part of cause of action has arisen within the territorial jurisdiction of this Court or not, will not have any relevancy. Even the agreement is stated to have been entered at Ramapuram, which is also outside the territorial jurisdiction of this Court, though it may or may not come within the purview of the Corporation of Chennai. Therefore, looking from any perspective, this Court is not inclined to allow this application. In such a case, the question of forum convenience would not arise as the said concept will not come within the jurisdiction of this Court. Hence, this application stands dismissed.

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