

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2016

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

CRP (NPD) No.941 of 2016

N.Balasubramanian

.. Petitioner

Vs

1.M/s.Happy Estates Private Limited
Rep. by its Director
"Happy Home"
5/12, Sivasailam Street,
T.Nagar, Chennai – 600 017.

2.P.Sekar

.. Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, praying to direct the District Munsif Court at Sriperumbudur to receive the case bundle in O.S.No.1192 of 2006 on the file of VI Assistant City Civil Court at Chennai.

For Petitioner

:Mr.G.RM.Palaniappan

ORDER

The suit in O.S.No.1192 of 2006 on the file of City Civil Court, Chennai, has been filed by the revision petitioner seeking for (i) declaration declaring the sale deed dated 18.10.2000 registered by the first defendant in favour of the second defendant as document No.5384 of 2000 on the file of the SRO, Sriperumbudur, as null and void; (b) for a permanent injunction restraining the

defendants from in any way claiming ownership and encumbering the property covered by sale deed dated 18.10.2000.

2. The schedule of the plaint contains the following description of the property :

“All the piece and parcel of land comprised in Survey Nos.228/2 and 228/6 bearing Plot No.564-A, measuring 1200 sq.ft. in Happy Land Colony situated in No.100, Mevallur Kuppam Village, **Sriperumbudur Taluk**, Kancheepuram District, in the layout known as Happy Land Colony as approved by the Deputy Director of Town and Country Planning, Kancheepuram District, vide his Ref.No.189/1994 dated 10.02.1994 bounded on the North by Plot No.546; South by Plot No.547, East by 40 feet Road and West by Plot No.545 and 548”.

2.1. According to the description given in the schedule, the property is located at Mevallur Kuppam Village, Sriperumbudur Taluk, Kancheepuram District.

3. This suit in O.S.No. 1192 of 2006 has been presented before the City Civil Court, Chennai.

3.1. The City Civil Court, Chennai, has passed an order dated 17.08.2007, giving a finding that, the suit can be filed where the defendants reside. Incidentally, the City Civil Court has relied

upon the Provision under Section 20 of C.P.C., under which, other suits to be instituted where defendant reside or cause of action arises”.

4. Challenging the same, the second defendant has filed a Civil Revision Petition in CRP(NPD) No.2626 of 2008. This Court, by an order dated 09.01.2009, has given a finding that the immovable property described in the suit is situated within the jurisdiction of a Court, other than the City Civil Court and therefore, the suit ought to have been filed in the Court, within whose jurisdiction the immovable property is situated.

5. Pursuant to the order passed in CRP (NPD) No.2626 of 2008, the plaint has been presented before the District Munsif Court, Sriperumbudur. But, the plaint is being returned repeatedly, raising the question of maintainability and that has made the plaintiff to approach this Court, seeking a direction to the District Munsif Court, Sriperumbudur, to take the case on file.

6. There is no need to pass any elaborate order, as the earlier direction given by this Court is clear that, the suit ought to be filed only before the Court in whose jurisdiction, the immovable property is situated.

7. It is enough, if the provisions of Section 16 and Section 20 of C.P.C., are extracted for reference of the Trial Court. Section 20 has to read along with Section 16 and both the Sections are reproduced for convenient reference :

Sec. 16:- Suits to be instituted where subject-matter situate.

Subject to the pecuniary or other limitations prescribed by any law, suits—

(a) for the recovery of immovable property with or without rent or profits,

(b) for the partition of immovable property,

(c) for foreclosure, sale or redemption in the case of a mortgage of or charge upon immovable property,

(d) for the determination of any other right to or interest in immovable property,

(e) for compensation for wrong to immovable property,

(f) for the recovery of movable property actually under distraint or attachment,

shall be instituted in the Court within the local limits of whose jurisdiction the property is situate :

Provided that a suit to obtain relief respecting, or compensation for wrong to, immovable property held by or on behalf of the defendant, may where the relief sought can be entirely obtained through his personal obedience be instituted either in the Court within the local limits of whose jurisdiction the property is situate, or in the Court within the local limits of whose jurisdiction the defendant actually and voluntarily resides, or carries on business, or personally works for gain.

Sec.20:- Other suits to be instituted where defendants reside or cause of action arises.

Subject to the limitations aforesaid, every suit shall be instituted in Court within the local limits of whose jurisdiction—

(a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or

(b) any of the defendants, where there are more than one, at the time of the commencement of the suit actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises.

8. Therefore, the District Munsif Court, Sriperumbudur, is directed to take the case on file and to proceed further in accordance with law. The plaint shall be represented before the District Munsif Court, Sriperumbudur, on or before 10.06.2016.

9. With the above directions, this Civil Revision Petition stands disposed of. No costs.

22.04.2016

ds

To:

The District Munsif Court,
Sriperumbudur.

S.VIMALA,J.

ds

CRP (NPD) No.941 of 2016

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