



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2016

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P. (PD) (MD) No.1984 of 2016

and

C.M.P. (MD) .No.9337 of 2016

1. G.Malayarasi

2. P.Ganesan

... Petitioners

Vs.

1. R.Janaki (died),

2. R.Subramanian

3. R.Sakthi

4. R.Senthilkumar

5. R.Selvi

(all the respondents are representing
through their power agent M.Ramasamy)

... Respondents

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India against the order passed by the learned District Munsif, Thiruvadanai, Ramanathapuram District in I.A.No.350 of 2014 in O.S.No.95 of 2009 dated 06.07.2016.

For Petitioners : Mr.R.Sevugaraja

O R D E R

The Civil Revision Petition has been filed against the order passed in I.A.No.350 of 2014 in O.S.No.95 of 2009 on the file of the District Munsif Court, Thiruvadanai, Ramanathapuram District.

2. The respondents herein filed a suit in O.S.No.95 of 2009 before the District Munsif Court, Thiruvadanai, Ramanathapuram District for declaration and mandatory injunction against the petitioners herein. In the aforesaid suit, the petitioners herein was set ex-parte on 12.02.2010. Thereafter, the petitioners herein filed an application to set aside the ex-parte decree passed in the aforesaid suit. The trial Court has allowed the said application by setting aside the ex-parte decree passed in the aforesaid suit, on 16.12.2013. Thereafter, the present application in I.A.No.350 of 2014 was filed before the District Munsif Court, Thiruvadanai, Ramanathapuram District to reject the plaint under Order 7 Rule 11(a) of C.P.C. In the said application, counter affidavit has been filed by the respondents. The respondents have contended that the said application filed is nothing, but to drag on the proceedings in the aforesaid suit. The trial



Court, after considering the oral and documentary evidence of both parties, observed that the aforesaid application filed by the petitioner is belated one and the issue will be decided at the time of trial and dismissed the application. Against which, the present revision petition has been filed.

3. Heard the learned counsel for the petitioners and perused the materials available on record.

4. The respondents herein filed the suit in O.S.No.95 of 2009 before the District Munsif Court, Thiruvadanai, Ramanathapuram District for declaration and mandatory injunction against the petitioners herein. It is an admitted fact that the said suit was decreed as set ex-parte and subsequently, the ex-parte decree was set aside by the trial Court on 16.12.2013, on an application filed by the petitioners herein. Thereafter, the petitioners herein has filed an application in I.A.No.350 of 2014 before the District Munsif Court, Thiruvadanai, Ramanathapuram District under Order 7 Rule 11(a) of C.P.C., to reject the plaint, stating that the respondents herein had executed a sale deed in favour of the petitioners. Before the trial Court, the respondents herein had disputed the said execution of the sale deed. Therefore, the dispute is execution of the sale deed and the same shall be decided at the time of trial. Hence, the application under Order 7 Rule 11(a) filed by the petitioners, at the belated stage, cannot be entertained and the same was dismissed.

5. In view of the facts and circumstances of the case, this Court is not inclined to interfere with the order passed by the District Munsif Court, Thiruvadanai, Ramanathapuram District in I.A.No.350 of 2014 in the aforesaid suit. However, the District Munsif Court, Thiruvadanai, Ramanathapuram District is directed to dispose of the suit itself in O.S.No.95 of 2009 as expeditiously as possible.

6. With the above direction, the revision petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/
Assistant Registrar(Crl.Side)

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Sub Assistant Registrar

To

The District Munsif Court, Thiruvadanai, Ramanathapuram District.