

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 30TH DAY OF AUGUST 2017

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

A.NO.5076 OF 2017
IN
C.S.NO.D 43988 OF 2016

N.Raghavulu Naidu,
S/o.N.Venkama Naidu,
Old No.Q-24, New No.48,
M.M.D.A.Colony,
Arumbakkam,
Chennai-600 106.

... Applicant/Petitioner

Vs.

M.Chithirai Vadivu,
W/o.Dr.Manuneedhi Cholan,
Flat No.2, Dwaraka Apartments,
No.55, Bazullah Road,
T.Nagar,
Chennai-600 017.

...Respondent/Defendant

Application praying that this Hon'ble Court be pleased to grant leave to sue in favour of the applicant/plaintiff to enable the applicant/plaintiff to prosecute the suit in accordance with law.

This application coming on this day before this court for hearing the court made the following order:

This application has been filed seeking leave to institute the suit. The suit had been filed seeking specific performance. The property is situated in Araneri Village, Sriperumbudur Taluk, Kancheepuram District. The suit is filed to have control over the land in question.

This Court cannot grant leave to sue, since there are consistent judgments stating with respect to the property situated outside the jurisdiction of this Court, this Court has no jurisdiction.

2. In **2006 1 CTC 270 (Thamiraparani Investments Private Limited Vs. Meta Films Private Limited)**, this court had held as follows:-

"8. In Moolji Jaitha and Company v. The Khandesh Spining and Weaving Mills Company Ltd. AIR 1950 Federal Court 83, the Court noted that the first prayer in the plaint was that it may be declared that the lands belonged to and are the properties of the plaintiff company and the defendants have no beneficial interest therein. In the said judgement, the Court held that in order to consider whether a suit is covered by the expression 'suit for land' in Clause 12 of the Letters Patent, one has to consider whether it is for the purpose of obtaining a decree for possession, or a decision in title to land, or is something different, but involves the consideration of the question of title to the land indirectly. The expression "suit for land" covers three classes of suits (i) suits for determination of title to land; (ii) suits for possession of land; and (iii) other suits in which the reliefs claimed if granted would directly affect title to, or possession of, the land. The words 'suits for land or other immovable property' in Clause 12, besides obviously covering claims for recovery of possession or control of land, or apt to connote also suits, which are primarily and substantially seeking an adjudication upon title to immovable property or a determination of any right or interest therein. The words "suit and land" means establishing title to land or any interest in the same, or for possession or control thereof, and the decree sought for must be intended proprio vigore to be enforceable against and binding on the land itself.

In the said judgement, it is also stated that the nature of the suit and its purpose have to

be determined by reading the plaint as a whole. The inclusion or absence of a prayer is not decisive of the nature of the suit, nor is the order in which the prayers are arrayed in the plaint. The substance or object of the suit has to be gathered from the averments made in the plaint on which the reliefs sought for in the prayers are based. In the case on hand, undoubtedly, looking to the averments made in the plaint as a whole, and the relevant relief sought for, the suit is clearly, substantially, and mainly for land.

9. A reference may also be made to the decision of the Supreme Court in *Adcon Electronics Pvt. Ltd. v. Daulate and Anr.* 2001 (4) CTC 39. In that case, the Supreme Court considered a suit for specific performance and an application for leave filed under Clause 12 of the Letters Patent before the High Court of Judicature at Bombay. The said Clause is in part materia to Clause 12 of the Letters Patent of the High Court of Judicature at Madras. While considering the said Clause, the Supreme Court held that if a suit is for determination of title to land, or suit for possession of land, or other suits in which the reliefs claimed, if granted, would directly affect the title of possession of land, the suit could be filed only in the Court in which jurisdiction the land is situate.

10. In *Southern Petrochemical Industries Corporation Ltd. v. Durga Iron Works and Ors.*, a Division Bench of this Court has held that a suit involving determination of title and interest of land for recovery of possession and control of land would be a "Suit for land".

3. In 2013 1 LW 728 (**Jethmull Chordia Vs. C.Venkatasubba Reddy**) this court had rejected the leave granted in respect of a property which was situated outside the jurisdiction of this court, holding that the suit was for control of the land and consequently, the Original Side of the High Court would not have jurisdiction to try the issues.

4. In view of the above, this application is dismissed. Office is directed to return the plaint, but the return of the plaint will not be done unless the learned counsel for the plaintiff produces the original plaint.

sd/-C.V.K.J

30.08.2017

//Certified to be a true copy//
Dated this the day of 2017.

EM/01.09.2017

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.