



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

C.R.P. (PD) (MD) No.1258 of 2017

and

C.M.P. (MD) No.6147 of 2017

M.Suseela

...Petitioner

-vs-

1.T.Ayyappan

2.A.Muthuramu

... Respondents

PRAYER: Civil Revision Petition is filed, under Article 227 of Constitution of India, to prefer an interlocutory application under Order VII Rule 7(a) of CPC., seeking rejection of plaint filed by the respondents herein and the same was dismissed by the learned District Munsif, Thirumangalam, in I.A.No.797 of 2017 on 27.04.2017.

For Petitioner

:Mr.M.Gururaj

O R D E R

The suit has been laid by the respondents/plaintiffs for declaration, mandatory injunction and permanent injunction. The defendant has preferred an application in I.A.No.797 of 2016 to reject the plaint on the ground that the plaint does not disclose the cause of action.

2. From the contentions put forth by the respective parties, it is found that the second plaintiff and the defendant has purchased the respective properties from the same vendor. Contending that the defendant encroached upon the suit property, the suit has been laid for declaration, mandatory injunction and permanent injunction. Even in the application to reject the plaint, it has been clearly admitted by the defendant that the second plaintiff has purchased the northern portion from the common vendor. However, it is contended that since both the second plaintiff and the defendant had purchased the properties from the same vendor, the suit property has not been properly disclosed in the plaint and hence, the plaint should be rejected, as devoid of cause of action. In support of the contentions, learned counsel for the revision petitioner relied upon a judgment



rendered in S.A.No.1265 of 2011 and W.P.No.23093 of 2011 dated 02.09.2016.

3. From the impugned order, it is found that the revision petitioner has marked Ex.P1, order of Government giving a grant of Rs.1,00,000/- (Rupees One Lakh only) to put up construction in the suit property. The Trial Court rejected it stating that Ex.P1 alone is not sufficient to reject the plaint. Further, the issue as to whether who is the title holder of the suit property can be decided only after full fledged trial and therefore, the plaint cannot be rejected in toto at this juncture.

4. This Court finds no infirmity in the impugned order. The judgment relied on by the learned counsel for the revision petitioner is not applicable to the case in hand. Resultantly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To:

The District Munsif,
Thirumangalam.

+1 cc to Mr.M.Gururaj , Advocate in SR.No. 63617

mm/sss

AE/JC/SAR1/19.07.2017/2P/3C

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