

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.9 of 2015
and M.P.Nos.2 to 4 of 2015

K.Meganathan

.. Petitioner

Vs.

1.Mohammed Aslam
2.M.A.Mohamed Ghouse

3.Mehrunnisa Begum

Represented by her Power of Attorney
holder M.A.Mohamed Ghouse

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to strike off the plaint in O.S.No.7115 of 2014 on the file of the VIII Assistant City Civil Court, Chennai.

For Petitioner : Mr.S.Thangavel

For R1 to R3 : No appearance

ORDER

The Civil Revision Petition is filed to strike off the plaint in O.S.No.7115 of 2014 on the file of the VIII Assistant City Civil Court, Chennai.

2. The petitioner is first defendant, first respondent is plaintiff and respondents 2 & 3 are the defendants 2 & 3 in O.S.No.7115 of 2014 on the file of the VIII Assistant City Civil Court, Chennai. First respondent filed said suit for permanent injunction restraining the petitioner and respondents 2 & 3 from interfering with his peaceful possession and enjoyment of the suit property and for permanent injunction restraining the petitioner and respondents 2 & 3 from alienating the suit property. According to the first respondent, respondents 2 and 3 are the owners of the suit property. They purchased the suit property from Vimalabhai Mohanlal and two others by registered sale deed dated 23.02.2012 bearing document No.3422 of 2012 on the file of the Joint Sub-Registrar – I, Chennai South. The third respondent executed a power of attorney deed appointing second respondent as her agent to deal with the property. The second respondent entered into an agreement of sale with the first respondent on 20.06.2013 to sell the suit property for

a total sale consideration of Rs.One Crore. First respondent paid Rs.50 Lakhs as advance and possession was handed over to the first respondent. From that date, first respondent is in possession and enjoyment of the suit property as an agreement holder. On 12.11.2014, the petitioner tried to trespass into the suit property. Hence, the first respondent lodged a police complaint. The police refused to receive the complaint. First respondent further stated that the petitioner, in collusion with the respondents 2 and 3 tried to alienate the suit property suppressing the sale agreement entered into between the first respondent. Hence, first respondent filed above suit. The petitioner has come out with the present Civil Revision Petition to strike off the plaint in O.S.No.7115 of 2014 on the file of the VIII Assistant City Civil Court, Chennai.

3. According to the petitioner, the City Civil Court at Chennai, has no territorial jurisdiction to decide the issue in the suit. The property is situate at Pallikaranai Village, Sholinganallur Taluk, Kancheepuram District. The District Munsif Court, Alandur, is the Court having territorial jurisdiction to entertain the suit. First respondent has filed the suit at the instigation of the respondents 2 and 3. The alleged agreement of sale is not registered and it is

invalid and unenforceable. The respondents 2 and 3 filed O.S.No.719 of 2012 on the file of the Principal District Munsif Court, Alandur, against one C.Jayagopal and others for permanent injunction restraining the said C.Jayagopal or any third parties not to interfere with their construction of the compound wall and other superstructure. The petitioner filed O.S.No.742 of 2014 on the file of the Additional District Munsif Court, Alandur, for permanent injunction against the respondents 2 and 3. Along with the said suit, the petitioner filed I.A.No.1195 of 2014 seeking interim injunction. The learned District Munsif, Alandur, granted interim injunction holding that the petitioner is in possession and enjoyment of the property. The respondents 2 and 3 filed application to vacate the interim injunction granted in I.A.No.1195 of 2014. The said application and suit are pending. By abusing process of the Court, first respondent has obtained interim injunction by filing the present suit. As per Section 16 of C.P.C., the suit has to be instituted where the subject matter of immovable property is situated. Even if the first respondent is entitled to file suit based on the cause of action or where the defendant resides, he has not obtained leave to file the suit. For the above reason, the petitioner filed present Civil Revision Petition to strike off the plaint.

4. Heard the learned counsel for the petitioner and perused the materials available on record. Though notices were served on the respondents and their names have been printed in the cause list, there is no representation on behalf of them either in person or through counsel.

5. The contention of the learned counsel for the petitioner to strike off the plaint is that the City Civil Court, Chennai, has no territorial jurisdiction to entertain and decide the issue in the suit. The suit filed by the first respondent is for permanent injunction in respect of the suit property, which is situate at Pallikaranai. The District Munsif Court, Alandur, only has territorial jurisdiction and first respondent by abuse of process of the Court had obtained interim injunction. First respondent has not obtained leave of the Court to file the suit based on the cause of action or residence of the defendant.

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6. As per Section 16 of C.P.C., the suit has to be instituted in respect of the immovable property where the said property is situate. At the same time, it has been stated in the said Section that if the relief sought for can be entirely obtained by the personal

obedience by the defendants, the suit can be filed either in the place where the property is situate or 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 resides or, carries on business or personally works for gain.

7. As per Section 20 of C.P.C., the suit can be filed in whose jurisdiction, the defendant or all the defendants reside, carry on business or personally works for gain. As per Section 20(b) of C.P.C., if some of the defendants reside or carry on business or works for gain outside the local jurisdiction, then the suit can be filed after obtaining leave from the Court.

8. In the present case, in the address given in the plaint, it is seen that the respondents 2 and 3 are residing at Chennai, within the jurisdiction of the City Civil Court, Chennai. The petitioner is residing at Pallikaranai. The contention of the learned counsel for the petitioner that the first respondent did not obtain leave as per Section 20(b) of C.P.C. and therefore, the suit filed by the first respondent is not maintainable in the City Civil Court, Chennai, cannot be decided in summary proceedings. This can be decided

only by the trial Court by verifying the records and appreciating evidence let in by the parties. It is open to the petitioner to raise all the contentions with regard to the territorial jurisdiction, before the trial Court.

9. For the above reason, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

18.01.2018

Index : Yes/No

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To

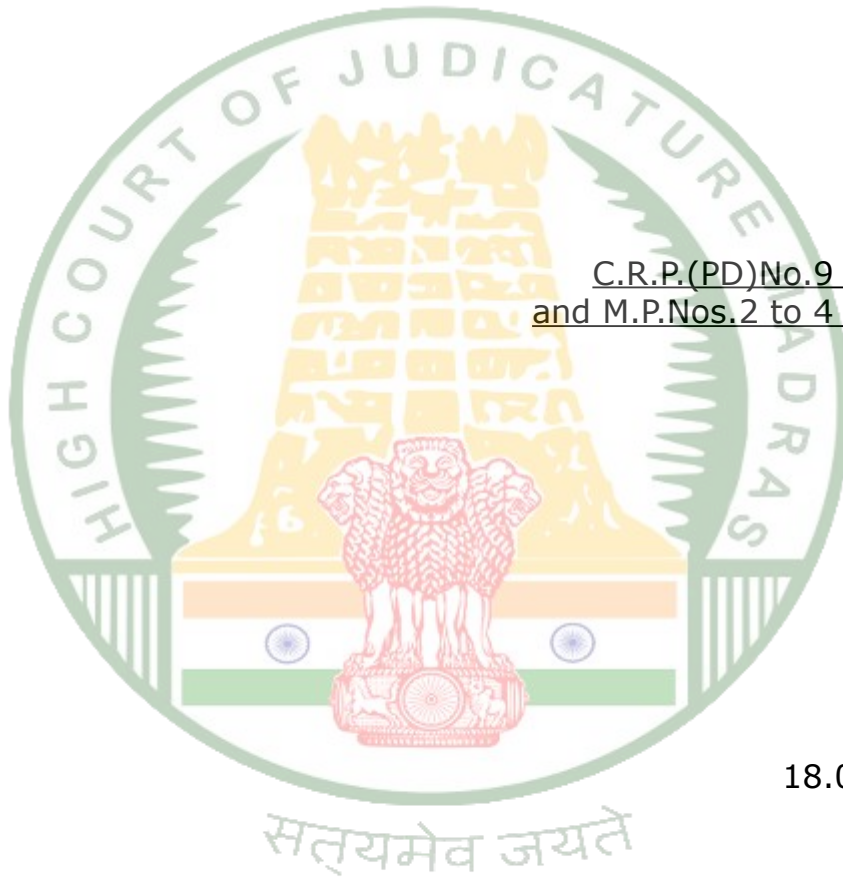
VIII Assistant Judge, City Civil Court, Chennai.



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V.M.VELUMANI, J.

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