

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2018

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.R.P.(PD) NOS.1459 OF 2013 AND 2396 OF 2016
AND CONNECTED MISCELLANEOUS PETITIONS

CRP (PD) NO.1459 OF 2013

Saravana Selvarathinam Retail Pvt. Ltd.,
 Rep. by its Managing Director
 Having registered office at
 No.14, Ranganathan Street,
 T. Nagar, Chennai - 600 017.

... Petitioner

Vs.

- 1.Zeenath
- 2.M.Saleem
- 3.M.Mustafa @ Mustaq
- 4.M.Alavuthin
- 5.M.Ghouse
- 6.M.Mubeen
- 7.M.Asraf Ali
- 8.M.Nazir Hussain
- 9.M.Sadique Hussain
- 10.M.Nuzhath Begam
- 11.M.Muhammed Iqbal
- 12.Munaivar Sultana
- 13.Mehamoodah Kausar Sulthana
- 14.Muhammed Suhale
- 15.Madina Shakil
- 16.Humera
- 17.Muhammed Fazel

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to strike off the plaint in O.S.No.841 of 2013 on the file of the District Munsif Court, Coimbatore.

CRP (PD) NO.2396 OF 2016

Saravana Selvarathinam Retail Pvt. Ltd.,
Rep. by its Managing Director
Saravana Arul
Having office at No.195/5,
Oppanakara Street,
Coimbatore - 641 001.

... Petitioner

Vs.

T.M.Ummar Kathapa

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to strike off the plaint in O.S.No.1035 of 2016 on the file of the Principal District Munsif Court, Coimbatore.

For Petitioner : Mr.T.V.Ramanujam
(in both CRPs') Senior Counsel
for Mr.G.Karthikeyan

For Respondents : Mr.T.R.Rajagopalan
1 to 7 in CRP (PD) Senior Counsel
No.1459 of 2013 for Mr.R.Shanmugam
and respondent
in CRP (PD) No.
2396 of 2016

COMMON ORDER

The parties in both the Civil Revision Petitions are the same. There are two suits, in which, the suit property is one and the same. The first suit is to declare the sale deed executed in favour of the revision petitioner as null and void by the respondents 1 to 8 and the second suit by a tenant not to interfere with his possession.

2. The brief facts leading to the case is as under:

(a) The respondents 1 to 7 / plaintiffs are the legal representatives of one Late Muhammed Shafi, who is a lineal descendant of Late B.G.B.Ammal @ Bibi John. She was the absolute owner of the suit property. The respondent nos.8 to 17 are the interlopers. They sold the property to the revision petitioner, by virtue of a sale deed dated 09.03.2012. According to the respondents 1 - 8 / plaintiffs, one Syed Ansrudeen Shahib mortgaged the property with the said B.G.B.Ammal @ Bibi John, by way of registered mortgaged deed dated 11.02.1925, for a sum of Rs.3000/- with a condition that in the event of failure to redeem

the property, the property shall be transferred in favour of the mortgagee. Accordingly, the great grandmother of the plaintiffs, namely B.G.B.Ammal @ Bibi John became the absolute owner of the suit property.

(b) While the matter stood thus, the respondent nos.8 to 17 / defendant nos.2 to 11 have executed a sale deed in favour of the revision petitioner, registered as document No.3097/2012, dated 09.03.2012, without any valid original documents. The sale deed was registered on the basis of a non-traceable certificate obtained from police, within seven days from the date of complaint, even without any paper publication.

(c) Further, the claim of the respondents 8 - 17 that the property was sold in Court auction sale on an alleged mortgage is false and improbable, for, the great grandmother herself passed away in 1927. Therefore, the subsequent sale deed registered in favour of other parties are also illegal and invalid. All the sale deeds are fraudulent and the suit schedule all along had shown T.S.No.6/1244 as the property conveyed, which is a Government road. In the sale deed dated 09.03.2012, the correct survey no. T.S.No.1358 is mentioned and the property has been

conveyed. The revision petitioner and respondents 8 to 17 have indulged in all criminal activities and executed the sale deed dated 09.03.2012. Therefore, the respondent nos.1 to 7 / plaintiffs filed O.S.No.841 of 2013 and sought to declare the sale deed as null and void, sham and nominal, not binding on the plaintiffs and for a consequential permanent injunction restraining the revision petitioner / first defendant from alienating, altering, encumbering the physical features of the suit property or to deal with the same.

3. The revision petitioner / first defendant filed the above Civil Revision Petition for striking of the plaint. This Court, while admitting the matter, had granted interim stay of all further proceedings. During the pendency of the above civil revision, another suit in O.S.No.1035 of 2016 came to be filed by a person claiming himself as tenant under original owner on the basis of a rental agreement seeking injunction restraining the revision petitioner from interfering and disturbing the peaceful possession and enjoyment of the suit property, except by due process of law. Against the above second suit filed by the tenant, another revision petition has been filed. Even though the plaintiff

claimed himself to be the neighbour, interestingly, the boundaries of both the properties are one and the same. The case of the tenant is that he entered into the rental agreement with the landlord in the year 2011, on a monthly rent of Rs.4,500/-, by paying an advance amount of Rs.3,00,000/- . Now, the present monthly rent is Rs.10,500/-. The revision petitioner / first defendant being a big businessman, attempted to evict the respondent forcefully, with the aid of rowdy elements, without any right over the property. Hence, a suit for injunction restraining the revision petitioner from interfering with his peaceful possession except under due process of law.

4. All the parties have entered appearance and considering the subject matter of both the suits, both the Civil Revision Petitions are taken up together for final disposal.

5. Mr.T.V.Ramanujam, learned Senior Counsel appearing for the revision petitioner has drawn the attention of this Court to the length and breadth of the pleadings and would submit that the plaint does not disclose any cause of action / legal right to maintain the suit.

6. On the other hand, Mr.T.R.Rajagopalan, learned Senior Counsel appearing for the respondent nos.1 to 7 would vehemently contend that when there is an alternative remedy of filing a petition for rejection of plaint under Order VII Rule 11 of the Civil Procedure Code, the present petition to strike off the plaint is not maintainable.

7. In so far as the respondent in CRP (PD) No.2396 of 2016 is concerned, Mr.T.R.Rajagopalan, learned Senior Counsel would contend that against the order of interim injunction, the course open to the revision petitioner is to file an appeal, as it is an appealable order. Apart from this, the remedy under Order VII Rule 11 of the Civil Procedure Code is available for rejection of plaint. In absence of exhausting all the alternative remedies, the Civil Revision Petitions are not maintainable. In support of his contention, he would rely on the following judgments:-

(i) Judgment of the Hon'ble Supreme Court
in **BALASARIA CONSTRUCTION (P) LTD. VS.
HANUMAN SEVA TRUST AND OTHERS [2006 (5) SCC
658]**

" 8. After hearing counsel for the parties, going through the plaint, application under Or.7 R.11(d) of the Civil Procedure Code and the judgments of the trial court and the High Court, we are of the opinion that the present suit could not be dismissed as barred by limitation without proper pleadings, framing of an issue of limitation and taking of evidence. Question of limitation is a mixed question of law and fact. Ex facie in the present case on the reading of the plaint it cannot be held that the suit is barred by time. The findings recorded by the High Court touching upon the merits of the dispute are set aside but the conclusion arrived at by the High Court is affirmed. We agree with the view taken by the trial court that a plaint cannot be rejected under Or.7 R.11(d) of the Code of Civil Procedure. "

(ii) Judgment of this Court in **AMARAVATHY CRANES AND STRUCTURAL PVT. LTD., & ANOTHER VS. RAJENDRA RAJA AND OTHERS [2013 (2) CTC 756]**

" 14. this court is not inclined to entertain the revision petitions for more than one reason. In this case, the

revision petitioner has remedy by way of filing of an application before the trial court under Order 7 Rule 11 of CPC for rejecting the plaints. It is only when such an application is filed, the trial Munsif will be in a position to decide whether the plaints should be rejected at the threshold without trial. In the event of the rejection of the plaint, the aggrieved party has right to challenge the same before the appropriate forum. The power under [Article 227](#) of the Constitution is extraordinary and it is supervisory jurisdiction. By the exercise of the supervisory power of jurisdiction, this court cannot convert itself into the court of appeal as held by the Supreme Court in [Abdul Razak v. Mangesh Rajaram Wagle](#) reported in (2010) 2 SCC 432 and in paragraph 23, it was observed as follows :

" 23.If the petition filed by Respondents 1 and 2 was under [Article 227](#) of the Constitution of India, then the learned Single Judge should have taken note of the often quoted judgment in [Surya Dev Rai v. Ram Chander Rai](#)⁷, in which a two-Judge Bench, after threadbare analysis of Articles 226 or 227

of the Constitution and considering a large number of judicial precedents on the subject, recorded the following conclusions: (SCC pp. 694-96, para 38) (4) Supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When a subordinate court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction.

.....

(8) The High Court in exercise of certiorari or supervisory jurisdiction will not convert itself into a court of appeal and indulge in reappreciation or evaluation of evidence or correct errors in drawing inferences or correct

errors of mere formal or technical character."

(Emphasis added)"

(iii) Judgment of this Court in **T.K.CHITHRAN AND ANOTHER VS. C.SAMSARI @ CHITHRAN AND OTHERS [2015 (3) CTC 485]**

" 13. From the above decision, it is clear that power under Article 227 of the Constitution of India has to be exercised sparingly and only in appropriate cases, where judicial conscience of this Court dictates it to act lest a gross failure of justice would occasion. This Court in exercise of power under Article 227 of the Constitution of India having Supervisory jurisdiction will not convert into an Appellate Court and appreciate or evaluate the facts by itself and draw inference. In my considered view, the remedy open to the Petitioner is to move the same Court where the Suits are filed under Order 7, Rule 11 of the Code of Civil Procedure and make out the applicability of the ingredients of the said Rule. Without doing so, the Petitioners cannot be permitted to rush to this Court."

(iv) Judgment of this Court in **THE COMMISSIONER CUM BLOCK DEVELOPMENT OFFICER, PANCHAYAT UNION, KOTAGIRI VS. H.M.KARI GOWDER AND OTHERS [CRP (PD) NO.2636 OF 2015 AND CRP (NPD) NO.3505 OF 2014 AND CRP (PD) NO.4489 OF 2013 DATED 23.07.2015]**

" 24. The power of judicial superintendence under Article 227 must be exercised sparingly only to keep the Courts and Tribunals within their bounds of authority and not to correct mere errors. The supervisory jurisdiction conferred on the High Court under Article 227 of the Constitution of India is confined only to see whether any inferior Court or Tribunal has proceeded within its parameter and not to correct an error apparent on the face of the record. "

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8. I have considered the submissions made on either side and perused the materials available on record.

I - LEGAL RIGHT

9. It is well settled principle of law that for filing a suit for declaration one should show the legal right accrued in his favour and the cause of action. For that purpose, the plaintiffs shall aver the derivation of title of the property and establish by oral and documentary evidence has right to stitle. In the instant case, the plaintiffs simply stated that one Late Muhammed Shafi was the owner of the property and they are the legal representatives of the original owner and as such, they are the title holders. Such a description of parties and derivation of title will not confer any legal right on the litigant. Moreover, a further reading of the plaint would show that the suit property was the subject matter of the previous litigation in O.S.No.505/1939 and pursuant to the decree, there was an auction sale in E.P.No.1111/1940. The decree holder said to have executed a sale deed in favour of the auction purchaser. The auction purchaser in turn sold the property by way of a registered document in favour of Megamoth Khan Shahib, who in turn sold the property in favour of the ancestors of the respondents 8-17 / defendants 2 to 11 / vendors of revision petitioner. Though the plaintiffs themselves clearly narrate the

derivation of title in favour of vendors, they have failed to plead as to how those documents are fraudulent and unenforceable. The plaintiffs have not at all taken any action against the illegal sale deeds, which had taken place from the year 1939 onwards. Even assuming that they are fraudulent documents, the genuine derivation of title should have been explained/proved by clinching evidence. There is no pleading by the plaintiffs to that effect. Therefore, it can be easily inferred that the vendors of the revision petitioner clearly show the trace of title, whereas it is not available for the plaintiffs. In such circumstances, it leads to the unassailable conclusion that the plaintiffs have no legal right / cause of action to maintain suit.

II - CAUSE OF ACTION

10. From the plaint, it is seen that the suit prayer is to declare the sale deed dated 09.03.2012 made in favour of the revision petitioner / first defendant as null and void, sham and nominal, not binding on the plaintiff and for a consequential permanent injunction from alienation, altering and encumbering the physical features of the property. The plaintiff does not seek any declaration of title, but it is only

to set aside the sale deed dated 09.03.2012 and consequential injunction from alienating, encumbering and altering the physical features of the suit property. From the prayer, it is clearly established that the revision petitioner / first defendant is in possession of the property, pursuant to the sale deed dated 09.03.2012. The plaintiffs have not come forward with any factual averments as to their physical possession and right to title and as to when their possession was taken away. The admitted documents filed by the plaintiffs along with the plaint and the pleadings clearly shows that there were several transactions with regard to the suit property in the past by the predecessor in title to the vendors till 26.07.1960 and the ancestors of the plaintiff were out of possession for more than five decades. The first Court auction sale had happened in 1940. The sale was confirmed and the purchasers were put in possession and sold the property. If at all the plaintiff's ancestors had any title, the cause of action to file the suit had arisen as early as 1940 or at least in 1960 and thereafter. In that event, there is no subsisting cause of action in favour of the respondents 1 - 7 / plaintiffs to maintain the suit. In such circumstances, the judgment relied on by the learned Senior counsel for the respondent / plaintiff will not apply to this case.

III - RELITIGATION

11. Having failed in their attempt to prove title in their favour, and having failed to challenge the decree passed by a Civil Court and execution Court, the above suit has been filed afresh. The suit now filed is against the matter already decided by a competent Civil Court having direct impact on the title to the suit property. The respondents now claim that they are the legal representatives of the said B.G.B.Ammal @ Bibi John, who had contested the case in the earlier litigation. In such circumstances, filing a suit against the purchaser for valid consideration from the lawful title holder amounts to re-litigation.

12. The Hon'ble Supreme Court, in its judgment in **K.K.MODI VS. K.N.MODI [AIR 1998 SUPREME COURT 1297]** has observed as follows:

"One of the examples cited as an abuse of the process of court is re-litigation. It is an abuse of the process of the court and contrary to justice and public policy for a party to re-litigate the same issue which has already been tried and decided earlier against him. The re-agitation may or may not

be barred as res judicata. But if the same issue is sought to be re-agitated, it also amounts to an abuse of the process of court. A proceeding being filed for a collateral purpose, or a spurious claim being made in litigation may also in a given set of facts amount to an abuse of the process of the court. Frivolous or vexatious proceedings may also amount to an abuse of the process of court especially where the proceedings are absolutely groundless. The court then has the power to stop such proceedings summarily and prevent the time of the public and the court from being wasted. Undoubtedly, it is a matter of courts' discretion whether such proceedings should be stopped or not; and this discretion has to be exercised with circumspection. It is a jurisdiction which should be sparingly exercised, and exercised only in special cases. The court should also be satisfied that there is no chance of the suit succeeding. "

13. In the instant case, the original owner, namely, the great grandmother of the respondent nos.1 to 7 / plaintiffs had contested the case in O.S.No.505 of 1939 and E.P.No.1111/1940. The title in so far as the suit property is concerned, it was decided by the Court below in

favour of one Jafer, by way of an auction sale. The ancestors of the respondent nos.1 to 7 have not taken any steps to challenge the decree or the auction sale. That has become final.

IV - LIMITATION

14. Moreover, as stated supra, the respondent nos.1 to 7 have not shown the genealogy as to how they have become the legal representatives of the original owner. There is no document to show that they were ever been in possession of the property and that the documentary evidence to show that they have inherited the property other than the legal representatives of the original owner of the suit property. In the absence of any clinching evidence conferring legal right to sue, the suit filed by the respondent nos.8 to 17 / defendants 2 to 11 is nothing but an abuse of process of law. More so, the admitted documents annexed to the plaint by itself would show that the respondent nos.8 to 17/ defendants 2 to 11, had derived title and they have sold the suit property in favour of the revision petitioner / first defendant. On the other hand, the sale deed of the year 2012, alone is challenged without

challenging the previous conveyances for over 72 years. This itself will prove that there is no cause of action, much less, the suit is hopelessly barred by limitation. This is a clear case of abuse of process of law and nothing short of it.

15. The Hon'ble Supreme Court in **POPAT AND KOTECHA PROPERTY V. STATE BANK OF INDIA STAFF ASSOCIATION [2005 (4) CTC 489]** has held that the plaintiff therein, can file fresh suit in terms of Rule 13 and hence, rejection of plaint under Order 7 Rule 11 CPC does not preclude the plaintiff from filing a fresh suit. In the aforesaid decision, it has been categorically held that the power vested under Order 7 Rule 11 of the Code of Civil Procedure could be invoked if on meaningful reading of plaint, no clear right to sue is found, and where plaint is vexatious and merit less, for which, the whole plaint must be read and there cannot be compartmentalisation, dissection, segregation and inversions of language of various paragraphs in the plaint and on such circumstance, it would not be the ground for rejecting the plaint. Similarly, the Hon'ble Supreme Court has held referring **N.BALAKRISHNAN VS. M.KRISHNA MURTHY [1998 (7) SCC 123]** thus :

"Unending period of launching the remedy may lead to unending uncertainty and consequential anarchy. The law of limitation is thus founded on public policy."

V - ABUSE OF PROCESS OF LAW & ALTERNATIVE REMEDY

16. Further, while invoking Order 7 Rule 11 of the Code of Civil Procedure, the Court has to go through and consider the whole pleading of the plaintiff, for which, the averments of the written statement shall not be gone into. It has been made clear that the plaint could be rejected, as per the averments of the pleading of the plaintiff that (1) where there is no cause of action to seek the relief sought for in the suit (2) the suit is barred by any statute and (3) if the suit being filed is found as an abuse of process of law. If any one of the aforesaid grounds is established, the Court can invoke Order 7 Rule 11 CPC to reject the plaint. When a revision petition is filed invoking [Article 227](#) of the Constitution, the requirement to struck off the plaint is more than what is required to reject the plaint under Order 7 Rule 11 CPC. If filing of the suit itself is a clear abuse of process, based on the plaint averments and the admitted facts of the plaintiff, this Court can pass appropriate orders

to struck off the plaint under [Article 227](#) of the Constitution. However, merely, based on the inordinate delay or the grounds raised under the [Limitation Act](#), plaint cannot be rejected. If the plaintiff, having sufficient knowledge about the occurrence, after a lapse of time, without any bonafide intention, approaches the Court, after the period of limitation, the same shall be presumed as an abuse of process of Court. If the suit filed is an abuse of process of law and court, this Court can pass appropriate orders, invoking [Article 227](#) of the Constitution of India to struck off the plaint, in order to prevent abuse of process of court and to meet the ends of justice.

17. This Court in [TAMIL NADU HANDLOOM WEAVERS' COOPERATIVE SOCIETY VS. S.R.EJAZ \[2009 \(5\) CTC 710\]](#) has held that Court cannot be a tool in the hands of vexatious litigants and that would be a mockery of justice to permit respondent therein to enjoy luxury of re-litigation.

18. In yet another judgment of this Court in [SEENI ALIAS SUNDARAMMAL VS. RAMASAMY POOSARI \[2000 \(III\) CTC 74\]](#) it has

been held that process of Court should not be misused or abused but shall be used *bonafidely* and properly. The Court should prevent improper use of litigating process. The question whether litigation is frivolous or abuse of process has to be judged from the angle of interest of justice and public policy. As the litigation had abused process of Court, it was held that High Court, while exercising its power of superintendence can step in, where there is blatant violation of process of Court.

19. This Court in **MARIA SOOSAI AND ANOTHER VS. ESAKKIAMMAL [1999-1-LW 727]** relying on the decision rendered by the Hon'ble Apex Court in **K.K.MODI VS. K.N.MODI [1982 (2) AIR SCW 116]** has held thus:

"Frivolous or vexatious proceedings may also amount to an abuse of the process of Court, especially where the proceedings are absolutely groundless. The Court then has the power to stop such proceedings summarily and prevent the time of the public and the Court from being wasted. Undoubtedly, it is a matter of Courts' discretion whether such proceedings should be stopped or not; and this

discretion has to be exercised with circumspection. It is a jurisdiction which should be sparingly exercised and exercised only in special cases. "

20. In **SOUTHERN AND RAJAMANI TRANSPORT PRIVATE LIMITED VS. R.SRINIVASAN [2010 (4) CTC 690]** this Court has held that alternative remedy under Civil Procedure Code is not a bar to invoke the jurisdiction under **Article 227** of the Constitution of India.

21. In **RAMIAH ASARI VS. KURSHAD BEGAUM [1999 (I) CTC 600]** this Court relying on the decision in **K.K.MODI VS. K.N.MODI [1998 (3) SCC 573]** has held that the Court should invoke its inherent power to strike off plaint when it comes to the conclusion that the claim has been made only for collateral purpose or is spurious one or of frivolous nature or improper use of machinery of court or its continued prosecution results in vexatious litigation.

22. Further, this Court in **N.A.CHINNASAMY VS. S.VELLINGIRINATHAN [C.R.P.(PD).NO.923 OF 2013 DATED 09.10.2013]** has held as follows: -

" 38. As the revision petition has been filed under [Article 227](#) of the Constitution of India, it being the superintending power of the High Court over all subordinate Courts, including Tribunals, this Court can interfere, only if there is clear abuse of process of Court, based on the averments or pleadings of the plaint. If it is established that the suit has been filed as an abuse of process of Court, in order to prevent the abuse of process of court and to avoid miscarriage of justice, this Court has to order strike off the plaint. The Hon'ble Supreme Court in the decisions referred to above has categorically ruled that where there is abuse of process of Court or filing the suit itself is contrary to justice and against public policy, this Court has to exercise its power under [Article 227](#) of the Constitution. If it is a frivolous or vexatious suit, as per the pleadings of the plaint and the Court process is being wasted, this Court has to exercise its power under [Article 227](#) of the Constitution of India to strike off the plaint. However, such jurisdiction should be exercised sparingly. When the Court is satisfied that there is no chance of the suit succeeding, as held by the Hon'ble Apex Court in [K.K.Modi v. K.N.Modi](#) (cited *supra*), petition filed under [Article 227](#) of the Constitution

of India, has to be allowed by this Court, to prevent abuse of process of law and to meet the ends of justice. "

The present case on hand is a classic example of abuse of process of law. There is absolutely no cause of action, hopelessly barred by limitation, and non-joinder of necessary parties.

CRP (PD) NO.1459 / 2013

23. After the Civil Revision Petition No.1459 of 2013 filed and interim order has been granted by this Court on 23.04.2013, the second suit through the so called tenant came to be filed in respect of the same property. Even though the plaintiff in O.S.No.1035 of 2016 stated that the defendant therein / revision petitioner is functioning adjacent to the suit property, the boundaries of the suit property clearly shows that the properties involved in both the suits are one and the same. By cleverly furnishing different survey numbers and other details, the second suit came to be filed for injunction restraining the revision petitioner / defendant.

24. A perusal of the plaint will show that the plaintiff / tenant therein had entered into a rental agreement with the so called owners and not with the defendant. The rental agreement shows that the land owners are none other than respondent nos.1 to 7 in C.R.P.(PD) No.1459 of 2013 / plaintiffs in O.S.No.841/2013. In view of the interim stay, already granted was extended on 29.09.2015, the proxy war had been launched through the tenant. The plaint was filed on 28.07.2016. Even though both the suits are pending before the same Court, it is surprising to note that the District Munsif had granted interim order basing on the lease deed dated 21.06.2011, wherein the owners of the property were not shown as parties. On the other hand, the revision petitioner, who is the owner of the adjacent property was shown as party. The prayer sought for was not to evict the person by undue process of law. While granting interim order, the Courts shall be very vigilant and convinced itself of the possession of the petitioner. Mere production of rental agreement and the rental receipts will not prove possession. The possession of running a shop can be proved by way of trade licence, tax receipts, electricity consumption card and other documents. Further, the averment that the adjacent land owner is trying to evict the petitioner by undue process of law is not sustainable.

Moreover, the landlords themselves admit that the revision petitioner is in possession and seek injunction not to alienate the property. In such a circumstances, the claim of possession through the so called landlords, by itself construed to be false and a vexatious suit without any cause of action has been filed, is nothing but clear abuse of process of law.

25. Even though the learned District Munsif would repeatedly state that the plaintiff is in lawful possession of the property and the adjacent owner is trying to evict him, which is violative of personal liberty guaranteed under the Constitution, the same is not convincing and not in good taste. The opening words that the petitioner appeared in person and while he represented the case, one person suddenly intervened by representing himself as staff of respondents without any authorisation for appearance as his caveator creates serious doubts in the minds of this Court itself discloses that the approach of the trial Court is not fair and unbiased. When the so called intervenor appeared before the Court, it is always better to ascertain the factual aspects of possession rather than granting injunction hurriedly. In the absence of any specific instance, proving threat of eviction, the Trial Court ought to have ordered notice before granting interim injunction.

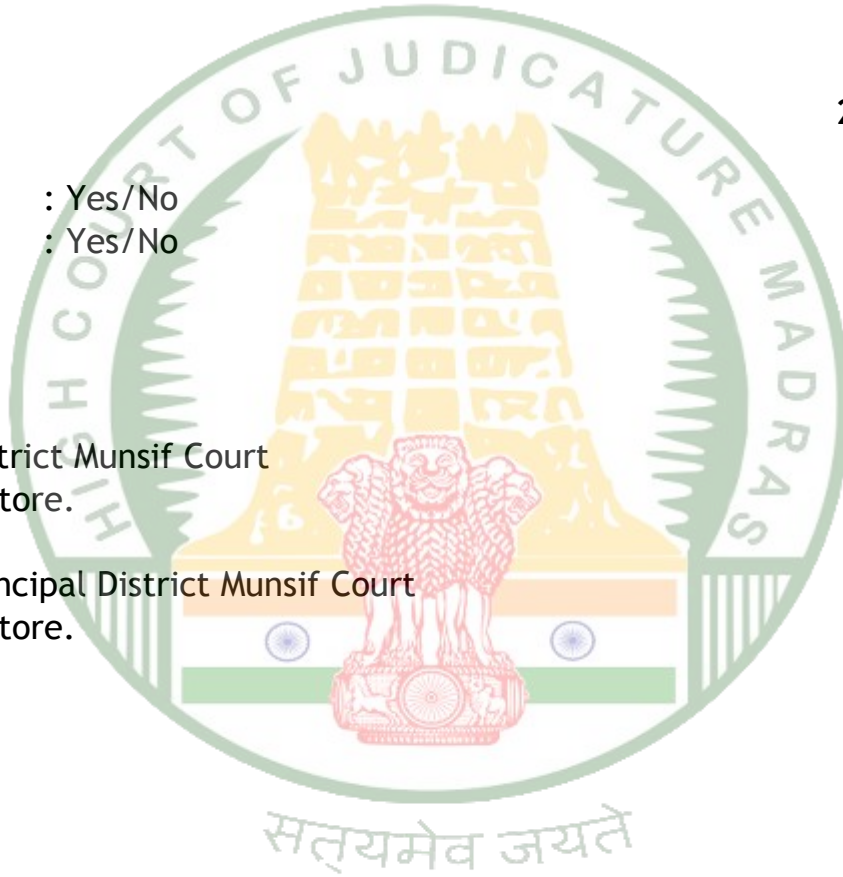
26. In such circumstances, both the suits in O.S.Nos.841 of 2013 and 1035 of 206 are dismissed and both the Civil Revision Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

29.01.2018

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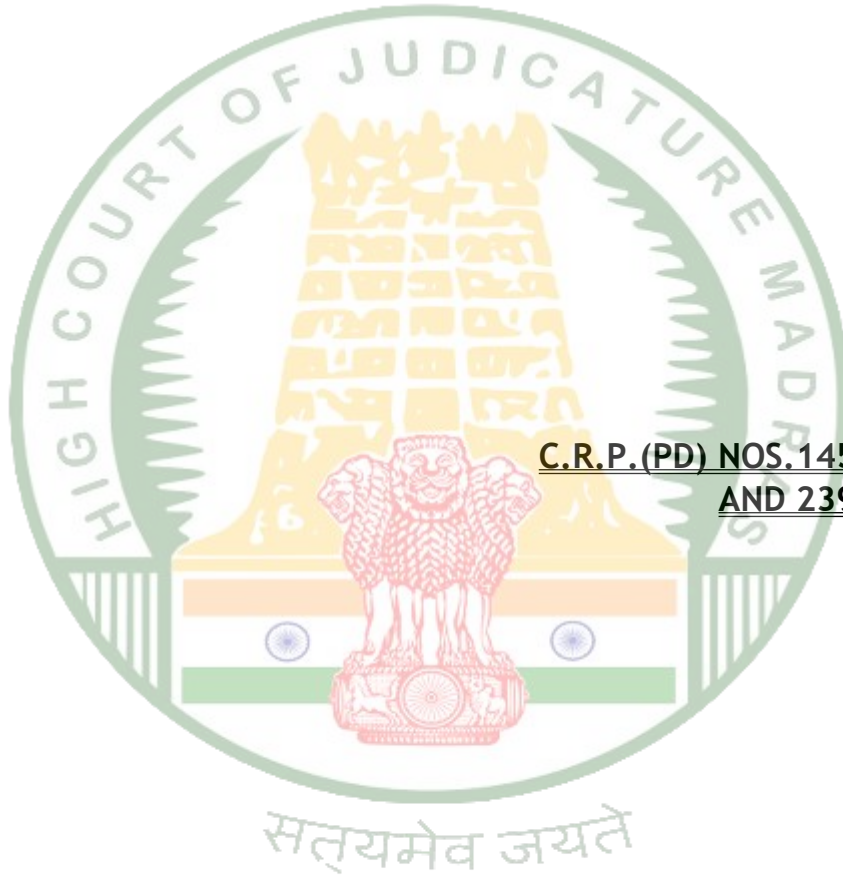
- 1.The District Munsif Court
Coimbatore.
- 2.The Principal District Munsif Court
Coimbatore.



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M.GOVINDARAJ, J.

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C.R.P.(PD) NOS.1459 OF 2013
AND 2396 OF 2016

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