



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2018

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP(MD)No.731 of 2018 (PD)
and
CMP(MD).3183 of 2018

R.Sankaranarayanan

... Petitioner

Vs.

1.A.Valli @ Valliyamayil

2.Ananthi

3.C.Vijaya

4.C.Periyathambi

5.P.Dhanushkodi

6.P.Jayachandran

7.A.Deivam

8.K.Jayamani

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, to strike off O.S No.93 of 2016 on the file of the District Munsif Court, Theni.

For Petitioner : Mr.M.A.M.Raja

For Respondents: Mr.C.Vakeeswaran for R1 & R2

No appearance for R3 to R8

ORDER

This civil revision petition has been filed to strike off the plaint in O.S No.93 of 2016 on the file of the learned District Munsif Court, Theni. The counsel for the revision petitioner pointed out that the revision petitioner filed O.S No.73 of 2008 on the file of the Principal District Court, Theni seeking the relief of specific performance. The present plaintiffs in O.S No.93 of 2016 are figuring as the defendants 3 and 4 in the suit filed by the revision petitioner. The suit was decreed.



Questioning the same, the defendants therein filed A.S No.166 of 2010. The same was dismissed on 19.07.2018.

2. But, in the meanwhile, to defeat the legitimate rights of the revision petitioner, the defendants 3 and 4 in the earlier suit, filed O.S No.93 of 2016 before the District Munsif Court, Theni. The revision petitioner is shown as the fourth defendant in the said suit. The relief sought for in O.S No.93 of 2016 is for partition and other declaratory reliefs. The suit property in O.S No.73 of 2018 is also one of the two items in O.S No.93 of 2016. Prima facie it appears that the suit filed by the respondents herein is an abuse of process. But, this Court exercising the jurisdiction under Article 227 of the Constitution of India cannot undertake a factual investigation.

3. Therefore, liberty is given to the revision petitioner to file an appropriate application before the court below. It is well known that Order 7 Rule 11 of CPC is not exhaustive. Section 151 of CPC confers inherent powers to any Civil Court to pass appropriate orders to prevent abuse of legal process. The petitioner is given an opportunity to file appropriate application before the court below. If the court below is convinced that an abuse of process has been committed by the present plaintiffs, the court below shall strike off the plaint from its file. The revision petitioner is given two weeks time to file such an application. If such an application is filed within two weeks from the date of receipt of a copy of this order, the same shall be disposed of within a period of four weeks thereafter. The suit proceedings in O.S No.93 of 2016 on the file of the learned District Munsif Court, Theni shall be put on hold and kept in abeyance till the disposal of such application.

4. With this direction, this civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

Sub Assistant Registrar (CS-I)

To

1. The District Munsif Court,
Theni.



2.The Section Officer,
V.R Section,
Madurai Bench of Madras High Court,
Madurai.(2 Copies)

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- + 1 CC TO MR.C.VAKEESWARAN , ADVOCATE IN SR NO.85543
- + 1 CC TO MR.M.MURALI, ADVOCATE IN SR NO.85570
- + 1 CC TO MR.M.A.M.RAJA, ADVOCATE IN SR NO.85558

SKM

BU/RP/SAR-I :23.10.2018 : 3P/7C

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