



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.06.2018

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.R.P.(MD) No.1043 of 2018
and C.M.P.(MD) No.4490 of 2018

WEB COPY

S.Jeyachandran

... Petitioner/3rd Defendant

-Vs-

1. S.Perumal

... 1st Respondent / Plaintiff

2. P.Kalirajan

....2nd Respondent/1st Defendant

3. K.Anbu Meena

...3rd Respondent /2nd Defendant

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records relating to the plaint in O.S.No.29 of 2015 on the file of the Court of the District Munsif, Madurai Taluk and strike off the same from the suit register by allowing this Civil Revision Petition.

For Petitioner : Mr.D.Srinivasa Raghavan

ORDER

The revision petitioner is the 3rd defendant in O.S.No.29 of 2015 on the file of the Court of the District Munsif, Madurai Taluk and the plaintiff, among various other reliefs, sought for setting aside the decree passed in O.S.No.119 of 2012 on 09.06.2014. The said suit was taken on file and numbered as O.S.No.29 of 2015, aggrieved by which, the 3rd defendant/revision petitioner herein is before this Court for striking off the plaint itself.

2. It is the case of the revision petitioner that the respondents 1 and 2 are father and son respectively and they settled their disputes amicably in O.S.No.119 of 2012. Based on the memo, a decree was also passed on 09.06.2014, decreeing the suit as prayed for and the plaintiff also submitted himself to the decree and as such, he has filed the present suit without assigning any reasons and thereby, attempted to abuse the process of the Court. It is the further case of the petitioner that that he purchased the property from the 3rd respondent on 16.03.2015, namely, after nine months of passing a judgment in the suit and the plaintiff, having submitted himself to the decree, has not now come up with the plea of striking off the plaint. Contending that the present suit is a clear abuse of process of law and the claim of the plaintiff is not justified, it is prayed that the plaint is liable to be struck off and the present petition has to be ordered accordingly.



3. Heard the learned counsel for the petitioner and the notice to other side is dispensed with, in view of the nature of disposal of this case.

4. Admittedly, the plaintiff had filed the suit in O.S.No.29 of 2015 on the file of the District Munsif Court, Madurai Taluk under Order VII Rule 1 of Civil Procedure Code. A perusal of the averments made in this petition, coupled with the facts narrated in the plaint would amply unravel the fact that there are a lot of disputed question of facts revolving around the property in question, more particularly, the plaintiff seeks to set aside the decree passed in O.S.No.119 of 2012. Further, the petitioner, without exhausting the remedy before the Court below under Order VII Rule 11 of the Civil Procedure Code, has straightaway approached this Court under Article 227 of the Constitution of India for rejection of the plaint.

5. Considering the nature of dispute between the parties, this Court feels that it may not be appropriate for this Court to strike off the plaint at this stage, instead, in the interest of justice, a direction shall be issued to the Trial Court for speedy disposal of the suit.

6. In the result,

- a) this Civil Revision Petition is dismissed;
- b) the District Munsif, Madurai Taluk, Madurai is directed to dispose of the main suit in O.S.No.29 of 2015 filed by the plaintiff, within the period of three months from the date of copy of receipt of this Order;
- c) further, liberty is granted to the revision petitioner to approach the concerned Court by invoking the provisions of Order VII Rule 11 of the Civil Procedure Code, if so required.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-IV)

To:

The District Munsif, Madurai Taluk.

+1CC to Mr.D.Srinivasa Raghavan, Advocate, SR.No.66615

C.R.P. (MD) No.1043 of 2018

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