

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2019

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

CRP PD No.3480 of 2013 and
M.P.No.1 of 2013

1.Padmavathy
2. Senthilkumar
3. Rosy
4. Saravanan ... Petitioners

Vs.

M/s Vishwas Associates,
represented by its Partner,
R.John Charles Clement,
carrying on business at No.10,
Sambandam Garden, Taramani Link Road,
Vellacherry, Chennai 600 042. ... Respondent

Prayer Civil Revision Petition filed under Article 227 of the
Constitution of India against the order dated 10.07.2013 passed by the
District Munsif, Ambattur in I.A.No.1831 of 2012 in O.S.No.451 of
2012.

For Revision Petitioners : Mr.R.Balachandran

For Respondent : Mr.P.B.Balaji

ORDER

This revision petition has been filed challenging the order passed by the trial court, dismissing the application, filed to reject the plaint on the ground that there is no cause of action to file the suit.

2. The revision petitioners are the defendants in the original suit and the suit has been filed by the plaintiff to declare the decree and judgment passed by the trial court in O.S.No.416 of 2010 dated 20.12.2010 as null and void and consequently declare the legal heirs certificate dated 06.01.2011 issued by the 10th defendant as null and void. The suit has been resisted by the defendants inter-alia by filing a petition to reject the plaint on the ground that the plaintiff, by suppressing the material facts and without producing the material documents, filed a suit before the court, which has no territorial jurisdiction and the independent right claimed by the plaintiff should be rejected as there was no cause of action to file the suit. After analysing the evidence on record, the trial court dismissed the application, against which, the present revision petition has been filed.

3. Heard the learned counsel appearing for the revision petitioner as well as the respondents. At the out set, I do not find any error or infirmity in the order passed by the trial court. The suit has been filed claiming independent right on the basis of the document said to have been originally executed by one Ellangaliammal, who said to be the real owner of the property. It is the contention of the plaintiff that the defendants have obtained the legal heirs certificate fraudulently and created documents and filed the suit in O.S.No.416 of 2010 and obtained decree and judgment in favour of them and hence, to set aside the said decree and judgment, the present suit has been filed. Such being the position, whether the defendants are the legal heirs of late Ellangali Ammal or not, and whether the legal heirs certificate is fabricated or not are the matter of evidence and that cannot be gone into at this stage. The cause of action is bundle of facts. The entire pleadings indicates that there is a cause of action for maintaining the suit. Hence, the plaint cannot be rejected merely on the ground that the revision petitioner had already obtained decree in O.S.No.416 of 2010.

4. The learned counsel for the revision petitioners submitted that already, the revision petitioners/defendants have filed a suit in C.S.No.343 of 2012 before this court. Such being the position, if the revision petitioners are so advised, either they may file an application to transfer the present suit to the file of the High Court for joint trial or simultaneous trial along with C.S.No.343 of 2012 pending before this court or they may file an application under Section 10 of the code of Civil Procedure.

5. With the above observations, this civil revision petition is dismissed. No costs. The connected civil miscellaneous petition is closed. The order of the trial court is confirmed.

30.04.2019

Index : yes/no
Internet : yes/no
Speaking order/non-speaking order
mst

To

The District Munsif, Ambattur.

WEB COPY

N.SATHISH KUMAR. J.,
mst



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