

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2019

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

CRP PD No.4192 of 2013

1. J.Rajeswari
2. G.Jayaraman

... Petitioners

Vs.

1. K.Indira
2. K.Jayapriya
3. K.Amutha
4. K.Parimala

... Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India against the orders dated 16.09.2013 passed in I.A.No.11526 of 2012 in O.S.No.2936 of 2012 by the XVII Assistant Judge, City Civil Court, Chennai.

For Revision Petitioners : Mr. R.Krishnamurthy
For Respondent No.1 : Mr.S.Subramanian
For Respondent No. 2 to 4 : No appearance

ORDER

This revision petition has been filed against the orders passed by the trial court, dismissing the application filed under Order VII Rule 11 of the Code of Civil Procedure to reject the plaint.

2. The petitioners are the defendants in the original suit and the suit has been filed by the plaintiffs for permanent injunction restraining the defendants from interfering with their peaceful possession and enjoyment of the suit property. It is the specific averment in the plaint that the plaintiffs are in possession of the suit property and the revenue records are also standing in their name. Though in the plaint the plaintiffs alleged that the defendants have fabricated some documents, the main crux of the issue to be decided is relating to the possession. The defendants have filed an application to reject the plaint stating that a settlement deed dated 24.10.1979 had been executed in favour of the 2nd defendant's father-in-law by his wife and in view of the same, there is no cause of action to file the suit. The trial court dismissed the application, against which this revision has been filed.

3. It is to be noted that only the plaint averments will be looked into as to whether any cause of action arisen to file the suit. Any documents filed by the defendants or the defence raised in the written statement are not at all relevant to decide, is there any cause of action to file a suit or not. The plaint averment clearly indicated the cause of action arisen to file such a suit for permanent injunction and hence, it cannot be rejected on mere lis of the defendant. Hence, I do not find any error or illegality in the orders passed by the trial court.

4. In the result,

(i) The Civil Revision Petition is dismissed. No costs. The orders passed by the trial court is confirmed.

(iii) The trial court is directed to dispose the suit within six months from the date of receipt of a copy of this order.

सत्यमेव जयते

18.03.2019

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

To

The XVII Assistant Judge, City Civil Court, Chennai.

N.SATHISH KUMAR. J.,
mst



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