

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2019

CORAM :

THE HON'BLE MR. JUSTICE N. SATHISH KUMAR

C.R.P. (PD) No.4256 of 2013

and

M.P.No.1 of 2013

1.S.Vanaja
2.Sarojini
3.M.Elango @ Dhanalakshmi ammal
4.Mala

... Revision Petitioners

Vs.

1.S.Srinivasan
2.K.Jegannathan
3.D.Nedunchezian
4.E.Usha

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to strike off the entire plaint in O.S.No.695 of 2013 on the file of the Principal District Munsif Court, Alandur, by dismissing the suit.

For Petitioners : Mr.J.Ramakrishnan

For Respondents : Mr.P.Chinnadurai for R3
: No appearance for R1, R2 and R4

ORDER

This Civil Revision Petition has been filed to strike off the plaint in O.S.No.695 of 2013 on the file of the Principal District Munsif Court, Alandur.

2.It is the case of the revision petitioners that the plaintiff in O.S.No.695 of 2013, who is the 1st respondent herein, has filed the suit for bare injunction on the basis of a lease deed executed in his favour by the 1st defendant in the suit, who is the 2nd respondent herein, however, the 1st defendant himself is not the owner of the property and he is only the paternal uncle of the defendants 2 to 7 in the suit and he has executed the lease deed in favour of the plaintiff, without any legal right over the suit property. It is contended that, when a person has no right over the suit property, execution of lease deed by such a person is not valid under law and therefore, the suit filed by the plaintiff, is an abuse of process of Court and is liable to be struck off.

3.Heard the learned counsel appearing for the revision petitioners and the 3rd respondent.

4.The suit is filed only for bare injunction in favour of the plaintiff, being a third party, claiming his right on the basis of a registered lease deed, executed in his favour by the 1st defendant, viz. the paternal uncle of the defendants 2 to 7. Whether the person, who has executed the lease deed, viz. the 1st defendant, has a right to the suit property to execute a lease deed in favour of the plaintiff, based on which, the plaintiff prays for a bare injunction, is a matter of evidence, which has to be decided before the trial

Court. Therefore, the suit cannot be struck off at this stage. However, the revision petitioners can very well establish their right before the trial Court.

5. In the result, this Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

6. There shall be a direction to the Principal District Munsif, Alandur, to dispose of the suit in O.S.No.695 of 2013 within a period of six months from the date of receipt of a copy of this order.

15.03.2019

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Index : Yes / No

Internet : Yes / No

Speaking order / Nonspeaking order

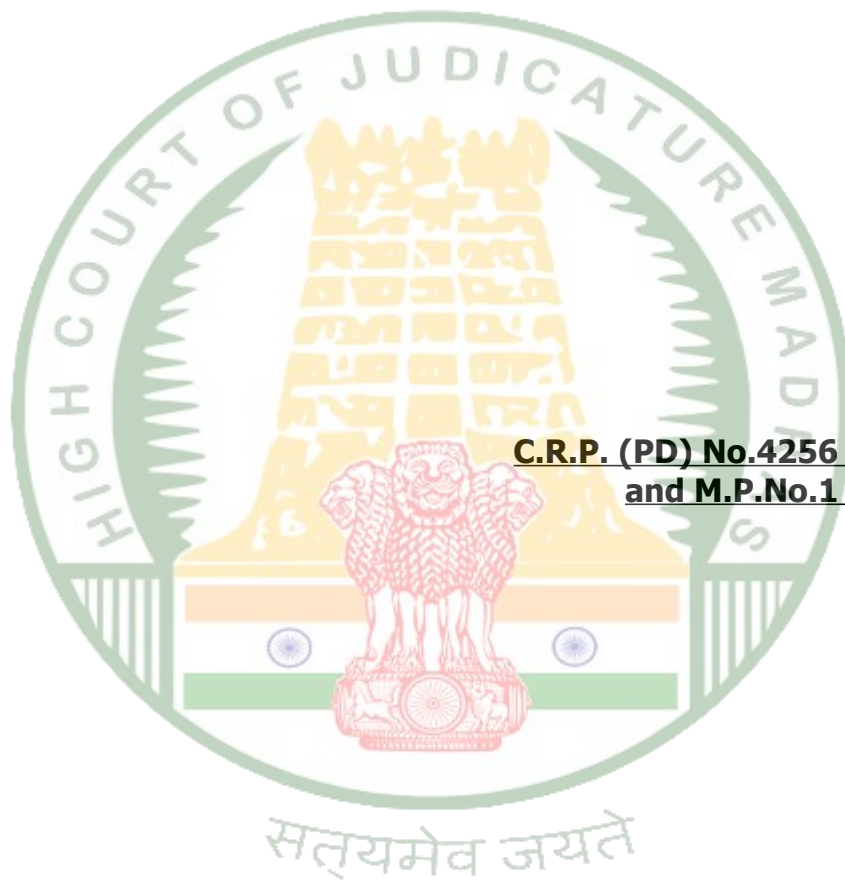
To

The Principal District Munsif,
Alandur.

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N. SATHISH KUMAR, J.

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