

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :01.04.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD)No. 1193 of 2019

and

CMP.No.7637 of 2019

Mrs. Vijaya

... Petitioner

-VS-

Mr. T. Sowri Kannan

... Respondent

Prayer: Petitions under Article 227 of the Constitution of India praying to set aside the fair and decreetal order passed in I.A.No.111 of 2019, in O.S.No.11 of 2019 dated 25.02.2019 by the District Munsif cum Judicial Magistrate Court at Sriperumbudur.

For Petitioner : Mr. M. Manivannan

For Respondent : Mr. A.D. Janarthanan

ORDER

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The above Civil Revision Petition is filed by the defendant challenging the order passed by the learned District Munsif cum Judicial Magistrate in I.A.No.111 of 2019 in O.S.No.11 of 2019 which is a

Petition filed for rejecting the Plaint filed by the respondent on the grounds that

- a) it does not disclose any cause of action.
- b) It is barred by law and
- c) an abuse of process of Court

2. The facts necessary to dispose of the Civil Revision Petition are as follows:

The plaintiff in his individual capacity being an individual has filed the suit for bare injunction stating that the respondent is a landlady who is interfering with his peaceful possession and enjoyment of the suit properties and therefore his possession has to be protected until it is over turned by a due process of law.

3. On receipt of the summons in the above suit, the defendant/revision petitioner has taken out the impugned application for rejecting the plaint on two grounds. The plaint is sought to be rejected on the ground that one M/s. Sabri Crop Care Sciences (P) Ltd had filed a Writ Petition W.P.No.244 of 2019 stating that they are tenants under the defendant: whereas the suit has been filed by the plaintiff in his individual capacity and would contend that the he cannot file the present suit. The second ground on which the plaint is sought to be rejected is that since the Writ Petition has been moved the suit is barred by law. The affidavit does not disclose any ground under which

the suit is barred by law and what is the question of law that is affected by the filing of the present Suit. The Trial Court has rejected this Application, challenging the same, the revision petitioner is before this Court.

4. Mr. M. Manivannan, learned counsel appearing on behalf of the revision petitioner would contend that the Writ Petition has been filed by the Company whereas the present Plaint is filed by an individual which itself amounts to abuse of process of Court and therefore the suit deserves to be dismissed. The respondent/caveator refuted the arguments.

5. On hearing both the parties, it is evident that the lease has been taken by the individual who has filed the suit and he was apparently running a Company in the said premises and since the defendant locked the door, the Company had filed the Writ Petition. This does not amount to the plaintiff filing the suit on the same cause of action. The suit is simply filed by a tenant, who cannot be evicted except by due process of law, whereas the Writ Petition has been filed by the Company who is running its business therein and has been affected by the alleged illegal act of the landlord therefore there cannot be any question of there being an abuse. Therefore the first contention which though not raised in the affidavit filed in support of rejection does not have any legs to stand. As regards cause of action,

P.T. ASHA, J.,

mrn
 a reading of Plaint would suffice for the Court to consider as to whether cause of action is made out. From a plain reading of the plaint which has been filed for permanent injunction, it is evident that the respondent/plaintiff has made out a cause of action for sustaining the suit. The second ground namely that filing of the Plaint is barred by the law has not been established by the revision petitioner. I do not find any infirmity in the order passed by the Court below. Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

01.04.2019

Index : Yes/No
 Internet : Yes/No
 Speaking/non-speaking order

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To,
 The District Munsif cum Judicial Magistrate Court,
 Sriperumbudur.

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