

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

C.R.P. (PD) No. 1404 of 2019

and

C.M.P. No. 9229 of 2019

1. P. Chandrashekar

2. R. Lokanath

3. M. Subramani

4. M. Sundaram

5. M. Murugesan

6. M. Ramu

7. Shanthamma

... Petitioners

Vs.

J.Gowtham Chand Sethyia

... Respondent

**Prayer** : Petition filed under Article 227 of the Constitution of India against the order and decretal order in I.A. 196 of 2017 in O.S. No. 150 of 2015 dated 06.02.2019 passed by District Munsif-Cum-Judicial Magistrate at Denkanikottai, dismissing the suit.

For Petitioners : Mr. R. Chandrashekar  
(Party-in-person)

For Respondent : Mr. V. Raghavachari

**ORDER**

This Civil Revision Petition has been filed against the fair and decretal order made in I.A. 196 of 2017 in O.S. No. 150 of 2015 on the file of the District Munsif-cum-Judicial Magistrate at Denkanikottai, by order dated 06.02.2019.

2. Before the trial Court, the revision petitioners, who are the defendants in the suit, filed the said I.A. No. 196 of 2017 under Order VII Rule 11(d) read with Section 151 of Civil Procedure Code to strike off the plaint.

3. The main suit was filed by the respondent / plaintiff for bare injunction, where the said application had been filed by the petitioners / defendants. The learned Judge, after hearing both sides and after having gone through the merits of the case, has rejected the said application by the impugned order, as against which, the present

revision has been filed.

4. I have heard the first petitioner herein appeared as party-in-person who made submissions that, with regard to the adverse possession and also with regard to the allegations made by the plaintiff / respondent against the petitioners / defendants, there are documents and proof in favour of the revision petitioners / defendants. Also the property in question is more worthy, whereas, for the purpose of the Court fee, the suit is under valued by the plaintiff and the suit has been accordingly filed hence the same has to be rejected.

5. I have heard Mr. V. Raghavachari, learned counsel appearing for the respondent / plaintiff who would submit that, since it is only bare injunction suit, whatever the issues raised by the petitioners / defendants with regard to the possession, adverse possession etc., the same can be decided only by Court below after completing the trial and therefore those issues if at all raised by any party, that would not entitle the petitioners / defendants to file a petition to reject the plaint by invoking Order VII Rule 11 (d) of Civil

Procedure Code.

6. I have heard both sides and I have gone through the averments placed before this Court including the impugned order.

7. At the outset, the learned Judge in the impugned order has dealt with the point raised by the revision petitioners in support of the Interlocutory Application to reject the plaint. Even though, the said petition has been filed Under Order VII Rule 11(d) of Civil Procedure Code collectively, all the available grounds for defendants to seek for rejection of the plaint as enumerated in Order VII Rule 11(d) of Civil Procedure Code, had been dealt with, including the ground of alleged under valuation of the suit and deficit Court fee and this issue after threadbare discussion has been rejected by the Court below through the impugned order.

8. If at all, any other issues or grounds available to the revision petitioners / defendants such as wrong claim of adverse possession, frivolous allegations made against the defendants to create a cause of action to file the suit etc., all those issues can be raised in trial while let

in evidence in this regard. Moreover, the first revision petitioner submits that, written statement had already been filed and the suit is ripe for trial. Therefore, if at all the suit is taken up at an early date and decided on merits, after completing the trial, the issue can be given a quietus.

9. In view of the said stand taken by the party-in-person on behalf of the revision petitioners, since the revision petitioners who are the defendants in the suit had already filed written statement and the suit is now ripe for trial and after gone through the reasons given by the learned Judge in the impugned order, this Court is of the view that, there is no justifiable reason to interfere with the said impugned order. Accordingly, this Court is inclined to dispose of this Civil Revision Petition with the following directions:-

- "(i) That this Civil Revision Petition does not contain any plausible reason to interfere with the order impugned of the trial Court in dismissing the I.A.
- (ii) The trial Court is hereby directed to take up the suit and complete the trial and decide it within a period of six months from the date of receipt of a

copy of this order.

(iii) Both the parties shall render utmost co-operation to the Court below to complete the trial within the time stipulated above."

10. Accordingly, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is also closed. No costs.

16.09.2019

Index: Yes / No  
Speaking order / Non speaking order

vji



To

The District Munsif-Cum-Judicial Magistrate,  
Denkanikottai.

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**R.SURESH KUMAR, J.**

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**16.09.2019**