

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P(PD).No.1429 of 2019

&

C.M.P.No.9380 of 2019

Durvasalu Naidu

...Petitioner

Vs

1.P.Vijayan

2.The Tahsildhar
Thiruvallur.

3.The District Collector
Thiruvallur.

... Respondents

Prayer:Civil Revision Petition is filed under Article 227 of the Indian Constitution against the order passed by the learned District Munsif, Thiruvallur in I.A.No.1092 of 2016 in O.S.No.26 of 2016 dated 19.12.2018.

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For Petitioner

:

Mr.Thilagaraj

For Respondents

:

No Appearance

ORDER

The above Civil Revision Petition is filed challenging the order passed in I.A.No.1092 of 2016 in O.S.NO.26 of 2016, which is an application filed by the revision petitioner/defendant for rejecting the plaint in the suit O.S.No.26 of 2016 which had been filed by the 1st respondent herein for the following reliefs:

"(1)for permanent injunction as against the 1st defendant, their men, agents etc., from any way disturbing peaceful possession and enjoyment of the suit schedule property by way of obstructing and preventing the plaintiff from fencing the suit property.

(2)for mandatory injunction restraining the 2nd and 3rd defendants their men, agents etc., from in any way issuing patta to the 1st defendant the suit property."

2.The application, subject matter of the challenge has been filed under two grounds:

a)Relief of injunction without seeking a declaration is not maintainable.

b)The suit is barred under provisions of Sections 14 and 15 of the Tamil Nadu Patta Passbook Act.

3.The learned Judge by an order dated 19.12.2018, was pleased to dismiss the said petition. Challenging the same the revision petitioner is before this Court. Heard the counsel appearing on behalf of the revision petitioner who reiterates the contentions raised before the Court below.

4.From a perusal of the plaint it is seen that the plaintiff has come forward with a case that he is the owner of the suit property under a sale deed dated 18.09.2016, and there is no ambiguity as far as claim is concerned. The main contention is that the 1st defendant is attempting to interfere with the peaceful possession and enjoyment of the suit property and he was also attempting to obtain patta from the 2nd and 3rd defendants, that is the basis on which the suit proceeds.

5.The petition for rejecting the plaint has been filed on the following grounds:

a)Prayer for an injunction has to be accompanied by prayer for a declaration, which is in my considered view is totally fallacy, when the plaintiff has come forward with a specific case that he his entitled to the property vide registered sale deed from the rightful owner.

b) Suit was barred by Sections 14 and 15 of the Tamil Nadu Patta Passbook Act, this can be invoked only when the entry has been made by the Revenue officials and the same is sought to be taken out.

6. In the instant case, the plaintiff/respondent has come forward with a case that the defendants are attempting to interfere with the peaceful possession and also trying to get patta transferred to their name. It is an established principle of law that so far as provisions of Order VII Rule 11 of the Code of Civil Procedure, if the plaintiff makes out a cause of action the court should not reject the plaint. I find no infirmity in the order passed by the learned Judge.

The Civil Revision Petition is dismissed. There shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is also closed.

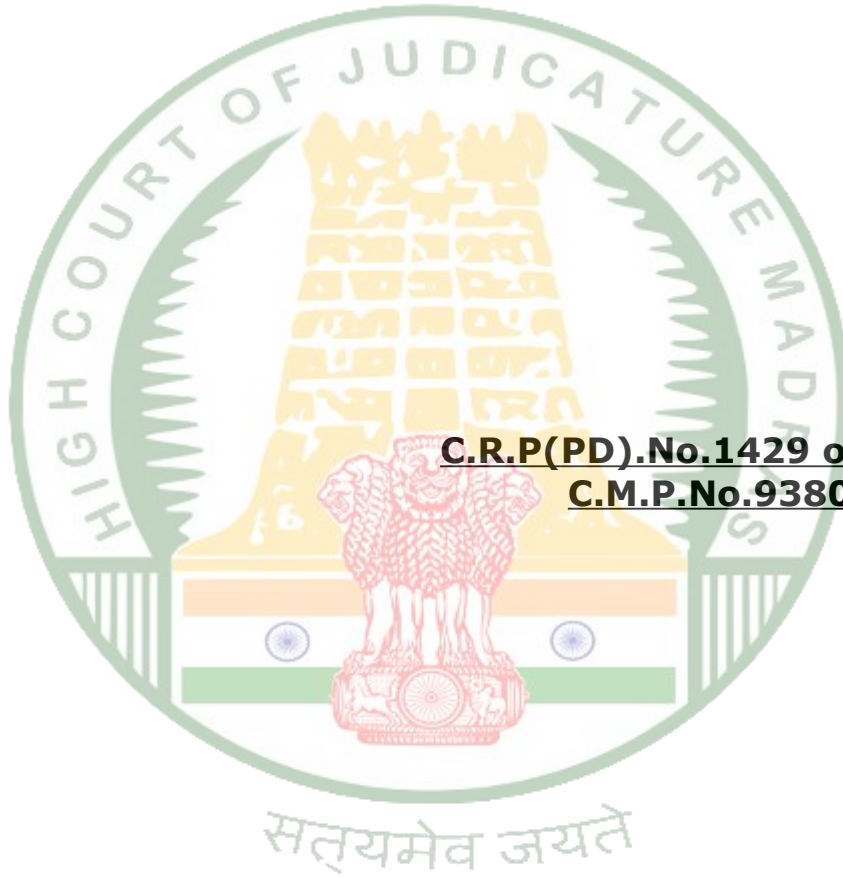
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Index : Yes/No
Speaking order/non-speaking order
To
The District Munsif, Thiruvallur.

P.T.ASHA, J.,

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