

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2019

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.R.P.(PD) NO.1716 OF 2019

AND

CMP NO.10997 OF 2019

K.Rajendran

... Petitioner

Vs.

C.Krishnaa

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal order dated 20.02.2019 passed in I.A.No.81 of 2019 in O.S.No.421 of 2011 by the Principal District Munsif Court, Alandur.

For Petitioner : Mr.T.Easwaradhas
For Respondent : Mr.S.Gunasekaran

ORDER

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The petitioner is the defendant in the suit filed by the respondent for permanent injunction. The Trial Court framed the following issues on 28.11.2011.

"(1) Whether the plaintiff is entitled for the relief of permanent injunction as prayed for.

(2) Whether the sale deed dated 9/8/1980 executed by Kuppammal and another in Document No.2873/1980 on the file of SRO Pallavaram in favour of Meena is not valid in the eye of law.

(3) Whether the suit was not properly valued.

(4) What else relief the parties are entitled to."

2. In a suit for permanent injunction, the second issue framed by the Trial Court was pertaining to the title of the property. The petitioner filed a petition to delete the second issue and also to include the issue as to the maintainability of the suit. The Trial Court, after considering the case of the petitioner, deleted the second issue, with regard to determination of title and partly allowed the petition. The Trial Court has found that the plaintiff is a *dominus litus* and the issue shall be framed on the basis of the facts pleaded by the parties. As such, the defendant cannot dictate terms on the plaintiff to frame the issues.

3. Learned counsel appearing for the petitioner would contend that the suit itself is not maintainable and therefore that issue

with respect to maintainability shall be specifically framed by the Trial Court.

4. I have considered the submissions made on either side.

5. Admittedly, three issues were framed and tried by the Trial Court. The suit is posted for arguments. Issue No.1 is whether the plaintiff is entitled for the relief of permanent injunction as prayed for. When that issue is decided, the Trial Court shall elaborately discuss the pleadings and evidence available before it and of course, during that course, will consider the maintainability of the suit also. In other words, the first issue framed by the Trial Court includes the maintainability of the suit as well as the entitlement of the plaintiff for the relief. In that event, the finding of the Trial Court that three issues tried by it would suffice to decide to suit for injunction is very much correct and does not require any interference.

6. Learned counsel for the respondent would contend that the suit is of the year 2011 and it is at the stage of arguments. According

to him, the matter is posted for defendant's arguments and the present petition is only an attempt to protract the proceedings.

7. Considering the submissions made, this Court is inclined to give a direction to the parties herein to complete their arguments on the next date of hearing and the Trial Court is directed to complete the proceedings and deliver judgment within a period of one month from the date of completion of arguments by both the parties.

8. The Civil Revision Petition is disposed of with the above observations and directions. No costs. Consequently, connected civil miscellaneous petition is closed.

04.06.2019

Index : Yes/No

Internet : Yes/No

TK

To

The Principal District Munsif
Alandur.

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M.GOVINDARAJ, J.

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