

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.12.2019

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CRP.(PD).No.3982 of 2019

and

C.M.P.No.26234 of 2019

Sheik Dawood

... Petitioner

Versus

Coimbatore Diocese Society
represented by its Authorized Signatory
Father J.Vinodh
Bishop House,
Coimbatore

... Respondent

PRAYER: Civil Revision Petition filed under Section 227 of the Constitution of India against the fair and decreetal order dated 10.09.2019 made in I.A.No.1 of 2019 in O.S.No.406 of 2018 on the file of the V Additional District Munsif, Coimbatore.

For petitioner : Mr. N.Ishtiaq Ahmed

ORDER

The Civil Revision Petition is taken up for final disposal at the Admission stage itself.

2. This Civil Revision Petition has been filed against the order dismissing the petitioner's application filed under Order VII Rule 11 of CPC to reject the plaint.

3. The respondent/plaintiff filed a suit in O.S.No.406 of 2018 on the file of the V Additional District Munsif Court, Coimbatore for directing the petitioner/defendant to vacate the suit property and for delivery of vacant possession. The said suit has been filed on the ground that the petitioner/defendant, is a tenant from the year 1998 and since the building is 125 years old building and in a dilapidated condition, the Municipal Corporation, Coimbatore, issued a notice to the respondent/plaintiff to demolish the entire complex immediately as it will cause danger to the general public. Based on that, the respondent/plaintiff requested the petitioner/defendant to vacate the premises. Since, the respondent/defendant refused to vacate the premises, the suit has been filed. In the above suit, the petitioner filed an application under Order VII Rule 11 of CPC to reject the plaint on the ground that he being a lawful tenant, without issuing a notice under Section 106 of the Transfer of Property Act, the suit is not maintainable and the suit has to be dismissed. The trial Court by an order dated 10.09.2019 dismissed the application on the ground that whether the lease was terminated or not can be decided only during the trial and plaint make out the cause of action for filing the suit. Challenging the same, the present revision has been filed.

4. Heard the learned counsel for the petitioner and perused the materials available on records carefully.

5. The suit in O.S.No.406 of 2018 has been filed on the ground that the building is in a dilapidated condition and the Coimbatore City Municipal Corporation has issued a notice to the plaintiff to demolish the building on the ground that it will cause danger to the general public. Whether the lease has been terminated by issuing notice Under Section 106 of the Transfer of Property Act or not is a matter to be decided in the trial and not an issue to be decided in the application filed under Order VII Rule 11 CPC. Considering the above facts, the trial Court rightly dismissed the application to reject the plaint. Hence, I find no illegality or irregularity in the order passed by the trial Court and I find no merit in the Revision Petition.

6. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

05.12.2019

Index : yes/no
Internet : yes/no
Speaking/Non-Speaking order
mrp
To

The V Additional District Munsif Court,
Coimbatore.

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V.BHARATHIDASAN

mrp



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