

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2020

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

C.R.P. (PD) No.171 of 2020

and

C.M.P.No.940 of 2020

1.Udaya Kumar
2.Santhosh Kumar
3.Devi

... Petitioners

Vs.

1.M.Parthiban
2.M.Pushpalatha
3.M.Kannan
4.M.Dharani

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to strike off the plaint in O.S.No.2757 of 2019 pending on the file of the XVIII Assistant City Civil Court, Chennai.

For Petitioners : Mr.M.Saravanakumar

O R D E R

This Civil Revision Petition has been filed by the petitioners/defendants to strike off the plaint in O.S.No.2757 of 2019 pending on the file of the XVIII Assistant City Civil Court, Chennai.

2. According to the petitioners/defendants, the respondents/plaintiffs have filed the said suit in O.S.No.2757 of 2019 for permanent injunction restraining the defendants 1 to 3 from interfering with the plaintiffs' peaceful possession and enjoyment of the suit property before the XVIII Assistant City Civil Court, Chennai, against the revision petitioners/defendants. Subsequently, the revision petitioners have filed the present Civil Revision Petition before this Court to strike off the said plaint which is pending before the XVIII Asst. City Civil Court, Chennai, by raising the ground that the cause of action for the suit arose in 2004 when the plaintiffs' grandfather Mr.Velayutham, has executed the settlement deed in favour of the revision petitioners 1 & 2 on 04.04.2009 and without disclosing the said settlement deed, the suit is filed before the Court below is liable to be rejected. Hence, the revision petitioners have come forward with the present CRP

before this Court for the above said relief.

3. Taking note of the aforesaid submission of the revision petitioners/defendants, and on a perusal of the grounds raised in the suit filed for permanent injunction and that the revision petitioners have relied upon the settlement deed executed by the revision petitioners 1 and 3, which is not a ground to strike-off the aforesaid plaint, Hence, revision petition is not maintainable. Hence, the revision petitioner has approached this Court to strike off the plaint without exhausting remedy before the trial.

4. Considering the scope of the relief sought for by the respondents/plaintiffs herein in the suit, it is clear that the revision petitioners/defendants have to satisfy the Court below to reject the said plaint, based on the principles as laid down by the Hon'ble Supreme Court in a catena of decisions.

5. Therefore, there is no merit in the civil revision petition to interfere with the contentions of the revision petitioners. At this stage, as requested by the learned counsel for the revision petitioners/defendants, the Court below shall dispose of the said suit as expeditiously as possible, taking note of the age of the revision petitioners.

6. The Civil Revision Petition shall stand dismissed with the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

To

1. XVIII Assistant Judge,
City Civil Court, Chennai.

2. The Section Officer,
V.R. Section, High Court, Madras.

+1 cc to M/s.M.Saravana kumar Advocate sr23019

C.R.P. (PD) No.171 of 2020

aa04/08/2020