

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.R.P.No.999 of 2019

S.K.Rakesh

...Petitioner

Vs

1.N.Geetha

2.M/s Arul Groups Property Management &
Arrangement Services Company

Represented by its Director

No.9, V.G.P. Murphy Square

1st Street, GST Road

St.Thomas Mount

Chennai - 600 106.

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to strike off the plaint in O.S.No.434 of 2018, on the file of the Additional District Munsif Court, Alandur.

For Petitioner : Mr.S.Vinod

For Respondents : Mr.Lakshminarayanan for
Mr.Sabharish

O R D E R

This Petition has been filed to strike off the plaint in O.S.No.434 of 2018, on the file of the Additional District Munsif, Alandur.

2.Suit has been filed by the 1st respondent/plaintiff for the relief of permanent injunction.

3.During the trial, the 1st respondent/1st defendant has filed the present revision petition to strike off the plaint in O.S.No.434 of 2018.

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4.The learned counsel for the petitioner submitted that the revision petitioner is the owner of the property/1st defendant in the suit and 2nd respondent/2nd defendant is the care taker and agent of the property, upon an agreement executed by the revision petitioner on 12.11.2017. The 1st respondent herein trespassed into the property and she is in illegal occupation. She claimed as an Advocate. If the 1st respondent/plaintiff is permitted to continue in the possession of the suit mentioned property, it will be seriously affect the owner of the property. The 1st respondent/plaintiff filed the suit in O.S.No.434 of 2018 for the relief of permanent injunction against the owner of the property/2nd defendant. It is pure abuse of process of law. She made a false claim and she has not replied to the notice sent by the revision petitioner/1st defendant. It is alleged that she had paid Rs.11 lakhs as a lease amount to the 2nd respondent/2nd defendant and executed the lease agreement. She had not paid any monthly rent as stated by her. Trespasser cannot be permitted to invoke law by filing suit and continuing in the suit property and thus pleaded to strike off the plaint in O.S.No.434 of 2018 on the file of the Additional District Munsif, Alandur, and reiterated the other grounds raised in the revision petition and pleaded to allow the revision petition.

5.The learned counsel for the 1st respondent submitted that the 1st respondent/plaintiff is not a trespasser. Admittedly, the petitioner/1st defendant is the owner of the property. He appointed the 2nd defendant as care taker and agent of the property owned by him by an agreement dated 12.11.2017. In that agreement, power was given to the 2nd respondent/2nd defendant to lease out the premises to any third party. On the strength of that agreement dated 12.11.2017, she paid Rs.11 lakhs as a lease amount to the 2nd respondent/2nd defendant, at the time of executing lease. Now she is in legal possession and since both the defendants in the suit attempted to vacate her from the premises illegally, has filed the suit. Whether she is a trespasser or a tenant, it is a fact that it has to be investigated and decided on the basis of evidence let in by the parties. The extraordinary power of article 227 of the Constitution of India cannot be invoked to strike off the plaint and thus pleaded to dismiss the Civil Revision Petition as it has no merits.

6.Heard both sides and perused the records.

7.This is an application under Article 227 of the Constitution of India to strike off the plaint in O.S.No.434 of

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2018 on the file of the Additional District Munsif, Alandur. Admittedly the revision petitioner is the absolute owner of the property. The fact that the 2nd respondent/2nd defendant was appointed as a care taker and agent of the property by the revision petitioner as per agreement dated 12.11.2017. Now the petitioner contended that the agreement period got lapsed. According to the 1st respondent/plaintiff in O.S.No.434 of 2018, she came into possession of the suit mentioned property as per the lease agreement dated 11.12.2017 and paid 11 lakhs as lease amount to the 2nd respondent/2nd defendant. Now, the revision petitioner/1st defendant disputed that the 1st respondent/plaintiff is a trespasser and also disputed the fact that the 2nd respondent/2nd defendant was not authorised to lease out the premises. Further the status of the 1st respondent/plaintiff, whether she is a tenant or a trespasser is also disputed.

8. So it is clear that the fact has to be decided only upon legal evidence which are let in before the trial Court during trial. While exercising the jurisdiction under Article 227 of the Constitution of India, this Court had limited role to play. It is not the function of this Court to exercise its supervisory jurisdiction to enter into the disputed question of fact. Therefore I find no merit in the revision petition.

9. In the result, the Civil Revision Petition is dismissed as not maintainable. No costs. The Additional District Munsif Court, Alandur, is directed to dispose of the O.S.No.434 of 2018 within a period of three months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

Jer

To

The Additional District Munsif, Alandur.

+3cc to Mr.S.Vinod, Advocate SR.42423

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MP (CO)
CB (02/02/2021)

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