

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.01.2020

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CRP(PD).No.4477 of 2017

1.T.S.Kuppusamy
2.T.S.Ramachandran

.. Petitioners

Vs.

R.Sathyamoorthy
Representing thiruvarangam village public,
Sankarapuram Taluk,
Villupuram District.

.. Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order in I.A.No.692 of 2016 in O.S.No.116 of 2016 dated 1-8-2017 by the learned District Munsif Sankarapuram.

For Petitioners : Mr.M.Devaraj

O R D E R

The Civil Revision Petition has been filed challenging the order dismissing the petitioners' application filed under Order 7 Rule 11 of the Civil Procedure Code.

2.The respondent/plaintiff has filed a suit for permanent injunction restraining the petitioners and other defendants from interfering with the suit schedule property. The above suit has been filed on the ground that the suit schedule property is classified as Grama Natham and the petitioners/defendants, who are having an adjacent land are now taking steps to lay out the suit property along with the other property and sell the same. In the above circumstances, the suit has been filed for permanent injunction in the representative capacity by the respondent/plaintiff.

3.In the suit, the petitioners, who are the 2nd and 3rd defendants in the suit, filed an application under Order 7 rule 11 of CPC stating that some superstructures were there in the suit property, but, the respondent/plaintiff had not mentioned about the same and the suit also is not valued properly and the description of the property also is not properly given.

4.The trial Court dismissed the application on the ground that since the suit is only for permanent injunction restraining the petitioners/defendants from interfering with the suit schedule property and respondent/plaintiff has not sought for mandatory injunction, in the above circumstances, there is no necessity to mention about the buildings. That apart, the plaintiff has also paid the court fee under Section 27(c) of CPC and there is no deficit of the Court fee as alleged by the petitioners. Now challenging, the same, the present Civil Revision Petition has been filed.

5. I have heard and considered the submissions of the learned counsel appearing for petitioners, and perused the records carefully.

6. It is a settled law that in an application filed under Order 7 rule 11 of the CPC, to reject the plaint, the averments made in the plaint alone is germane to decide the issue and the contention of the defendant cannot be taken into consideration for deciding the application under Order 7 rule 11 of CPC.

7.Now, it is the case of the respondent/plaintiff that the suit property is a grama natham, which lies adjacent to the petitioners' property and now petitioners are taking steps to include the suit schedule property in a lay out along with other property and sell the same and hence, the suit has been filed. As rightly held by the trial Court, merely because some superstructures are there in the suit schedule property and the plaintiff failed to mention about the alleged buildings in the suit schedule property, cannot be a ground to reject the plaint and the trial Court has also held that the Court fee has been paid property.

8.Hence, I find no illegality or irregularity in the order passed by the Trial Court, and I find no merit in this Civil Revision Petition. Accordingly, the Civil Revision Petition stands dismissed. No costs. However, the petitioners are at liberty to raise all these issues before the trial Court.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

tsg

To
The District Munsif,
Sankarapuram.

+1 cc to M/s.M.Devaraj, Advocate Sr.No.3425

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RLD(CO)
RMP(21/07/2020)



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