

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P. (PD) No.3162 of 2018
and CMP Nos.18108 of 2018 & 474 of 2019

1. Gopal

2. Raja @ Rajendran

.. Petitioners

Vs.

1. Ananthayi

2. Malarkodi

3. B.Mani

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to strike of the plaint in O.S.No.1990 of 2018 on the file of the Court of II Assistant City Civil Judge, Chennai.

For Petitioners

: Mr. J.Ramakrishnan
for M/s.N.S.Sivakumar

For Respondents

: Mr.P.Stalin Selvasekaran

ORDER

This matter is taken up for hearing through Video-Conferencing.

The defendants in O.S.No.1990 of 2018 have come up on Revision under Article 227 of the Constitution of India, seeking to strike of the plaint filed in the City Civil Court, Chennai, by the respondents seeking permanent injunction restraining the petitioners herein from interfering with their possession of the suit properties.

2. The respondents herein as plaintiffs had filed OS No.1990 of 2018 on the file of the City Civil Court, Chennai, seeking the relief of injunction claiming that they are the wife and daughters of one Late Ramasamy, who died possessed of the suit property. According to them, on the death of Ramasamy, the suit property devolved on them and they are in possession of the suit property as his legal heirs. Certain documents to establish their case have also been filed along with the plaint.

3. Even prior to the institution of this suit, the petitioners herein had

along with their mother had filed C.S. No.767 of 2015 in this Court seeking a declaration that they are the legal heirs of the deceased Ramasamy, for a declaration that the Sale Deed executed by the fourth defendant in favour of defendants 1 to 3 is null and void, for a declaration that the settlement Deed executed by defendants 1 and 2 in favour of the third defendant is null and void and for mandatory injunction directing the fifth defendant to execute a Sale Deed in favour of the plaintiffs. The claim of the plaintiffs in C.S. No.767 of 2015 is that they are the wife and children of the deceased Ramasamy.

4. I have heard Mr.J.Ramakrishnan, learned counsel appearing for M/s.N.S.Sivakumar, for the petitioners and Mr.P.Stalin Selvasekaran, learned counsel appearing for the respondents.

5. It is stated by Mr.J.Ramakrishnan, learned counsel appearing for the petitioners that the suit in CS No.767 of 2015 has been transferred to the City Civil Court, and the same is pending on the file of the VII Additional City Civil Court. Mr.J.Ramakrishnan, would vehemently contend that the

suit in OS No.1990 of 2018 has been filed only as a counter blast to the suit in C.S.No.767 of 2015. He would submit that the documents that are filed along with the suit are created documents, and therefore, the plaint has to be struck off.

6. I do not think such an exercise could be done by exercising the supervisory jurisdiction under Article 227 of the Constitution of India. The dispute apparently seems to be as to the status of the petitioners and the respondents, all of them claim as the legal heirs of the deceased Ramasamy. The question as to who are the real legal heirs has to be decided only after trial in either of the suits. Admittedly both the suits are pending as of today. Therefore, the plaint cannot be rejected on the assumption that the plaintiffs are not the legal heirs or that the documents filed by the plaintiffs in O.S. No.1990 of 2018 are fabricated or forged. These are questions which have to be essentially addressed at the time of trial. I do not think that mere pendency of two suits having rival claims would form the basis for rejection of plaint in one of the suits.

7. Hence the Civil Revision Petition fails and it is accordingly dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

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jv

Index: No
Internet: Yes
Speaking order

To

1. The II Assistant City Civil Judge, Chennai.
2. The VII Additional City Civil Judge, Chennai
3. The Section Officer,
V.R.Section, High Court of Madras.

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C.R.P. (PD) No.3162 of 2018
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R.SUBRAMANIAN, J.

jv



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