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C.R.P.(PD).Nos.2830 to 2838 & 3072 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD).Nos.2830 to 2838 & 3072 of 2015
and M.P.Nos.1 of 2015 (10 petitions)

Mahaveerchand

.. Petitioner in C.R.P.No.2830/2015

Vs.

A/M Bashyakara Adhi Chenna Kesava
Perumal Temple
Rep. By its Executive Officer
Chennai 600 033.

.. Respondent in all C.R.Ps.

Common Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the common order and decree dated 25.03.2015 made in I.A.No.18973 of 2010 in O.S.No.8812 of 2009, I.A.No.12017 of 2014 in O.S.No.8813 of 2009, I.A.No.19034 of 2010 in O.S.No.8814 of 2009, I.A.No.19035 of 2010 in O.S.No.8815 of 2009, I.A.No.15575 of 2010 in O.S.No.8817 of 2009, I.A.No.18972 of 2010 in O.S.No.8819 of 2009, I.A.No.15577 of 2010 in O.S.No.8821 of 2009,



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I.A.No.17214 of 2010 in O.S.No.13041 of 2009, I.A.No.10559 of 2014 in O.S.No.13039 of 2009 and I.A.No.16756 of 2010 in O.S.No.8816 of 2009 on the file of the XVI Assistant City Civil Court, Chennai.

(In all C.R.Ps.)

For Petitioner : Mr.S.Viswanathan

For Respondent : Mr.S.Parthasarathy (Senior Counsel)
for M/s.R.Mahalingam

COMMON ORDER

(The matter is heard through 'video conferencing/hybrid mode')

These Civil Revision Petitions are filed to set aside the common order and decree dated 25.03.2015 made in I.A.No.18973 of 2010 in O.S.No.8812 of 2009, I.A.No.12017 of 2014 in O.S.No.8813 of 2009, I.A.No.19034 of 2010 in O.S.No.8814 of 2009, I.A.No.19035 of 2010 in O.S.No.8815 of 2009, I.A.No.15575 of 2010 in O.S.No.8817 of 2009, I.A.No.18972 of 2010 in O.S.No.8819 of 2009, I.A.No.15577 of 2010 in O.S.No.8821 of 2009, I.A.No.17214 of 2010 in O.S.No.13041 of 2009, I.A.No.10559 of 2014 in O.S.No.13039 of 2009 and I.A.No.16756 of 2010 in O.S.No.8816 of 2009 on the file of the XVI Assistant City Civil



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2.The facts, issue involved and the respondent in all the Civil Revision Petitions are one and the same and hence, they are disposed of by this common order. Only the fact in C.R.P.No.3072 of 2015 is extracted hereunder as the facts in all the Civil Revision Petitions are one and the same.

3.The petitioner in all the Civil Revision Petitions are defendants in O.S.Nos.8812 to 8815, 8817, 8819, 8821, 13041, 13039 and 8816 of 2009 respectively. The respondent-temple filed the said suits for eviction of the petitioners and to surrender the vacant possession of the suit schedule property. In the said suits, the petitioners filed applications in I.A.No.18973 of 2010, 12017 of 2014, 19034, 19035, 15575, 18972, 15577 & 17214 of 2010, 10559 of 2014 and 16756 of 2010, to reject the plaints. According to the petitioners, the suit property was originally part of a minor Inam granted in favour of the respondent-Temple. On abolition of Inam, the property was vested with the Government. As per Section 13



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(1) of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963, (hereinafter referred to as, 'the Act'), every building standing in an inam land becomes property of the person who is in possession of the property before coming into force of the said Act. As per Section 13 (2) of the Act, “building” includes the land on which it stands. Hence, the petitioners became absolute owner of the building as well as land on which the building stood. Hence, the respondent/plaintiff has no right to seek delivery of possession of suit schedule property. The Settlement Tahsildar issued joint pattas, recognizing the respondent-Temple as owner of the land and petitioners as owners of the building. Hence, the suits against the co-owners are not maintainable. The order of Settlement Tahsildar is not final and petitioners can challenge the same in civil proceedings. The present suits, without declaration of title, are not maintainable. The enhancement of rent claimed as per the Government Order for the properties of religious institution is not applicable, as petitioners are not owners of the property. As per G.O.Ms.370, Commercial Taxes and Religious Endowments Department dated 03.10.1974, grand mother of the petitioners made applications, as she



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was in continuous possession of the suit property and only after thorough investigation, she was recognized as owner of the property. The petitioners are paying all statutory dues and they have been mutated as legal heirs of their grand mother, the original lessee. The respondent is not entitled to fix different rent than what is mentioned in the lease deed and rent mentioned in G.O.Ms.No.456, Tamil Development Culture & Religious Endowment, dated 09.11.2007 is not applicable and it is creating artificial arrears of rent. The petitioners purchased the property in the year 1936 itself and ground rent that was agreed to be paid under the lease deed was only a nominal amount payable to the temple in recognition of its rights as its original Inamdar and subsequently, as a Pattadar for ground rent. Hence, the respondent-Temple cannot claim any superior title outside the property of Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963. The petitioners are co-owners and respondent cannot claim any rent from the co-owners. On these grounds, the petitioners prayed for rejection of plaints.

4.The respondent-Temple filed separate counter statements,



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denying all the averments and submitted that they terminated the lease by issue of notice dated 31.03.2008, under Section 106 of Transfer of Property Act. The petitioners failed to pay revised rent. There is huge arrears of rent payable by the petitioners. There is cause of action for filing the suits against the petitioners. The respondent made various averments with regard to proceedings of Settlement Tahsildar and subsequent filing of the appeals before this Court and submitted that the suit property belongs to the Temple and building alone belongs to the petitioners and prayed for dismissal of the applications.

5.The learned Judge considering the averments in the affidavits and counter affidavits, dismissed all the applications, holding that there is cause of action for filing the suits, suits are not barred by law and claim of the petitioners that they became co-owners or absolute owners is a mixed question of fact and law and the same can be decided only after full fledged trial.



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6. Against the said common order dated 25.03.2015 made in I.A.No.18973 of 2010 in O.S.No.8812 of 2009, I.A.No.12017 of 2014 in O.S.No.8813 of 2009, I.A.No.19034 of 2010 in O.S.No.8814 of 2009, I.A.No.19035 of 2010 in O.S.No.8815 of 2009, I.A.No.15575 of 2010 in O.S.No.8817 of 2009, I.A.No.18972 of 2010 in O.S.No.8819 of 2009, I.A.No.15577 of 2010 in O.S.No.8821 of 2009, I.A.No.17214 of 2010 in O.S.No.13041 of 2009, I.A.No.10559 of 2014 in O.S.No.13039 of 2009 and I.A.No.16756 of 2010 in O.S.No.8816 of 2009, the petitioners have come out with the present Civil Revision Petitions.

7. The learned counsel appearing for the petitioners reiterated the averments in the affidavits and grounds raised in the revisions. The learned counsel appearing for the petitioners contended that the averments in the plaints are vague and it is not clear on what basis the respondent is claiming relief. In view of the same, the petitioners are not in a position to defend the claim made against them. The respondent has not produced alleged lease deed entered into between them and Chinnammal, the original lessee. The failure on the part of the respondent



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to produce the lease deed is fatal to the claim of the respondent and complaints are liable to be rejected on this ground also. The learned counsel appearing for the petitioners further submitted that the complaints do not disclose any cause of action and are barred by law. The learned counsel appearing for the petitioners extensively referred to the averments in the complaints and argued that originally, the suit property is inam land, the proceedings initiated before the Settlement Tahsildhar are subsequent proceedings and the petitioners are co-owners of the suit property. The petitioners are paying rent and hence, suits are not maintainable. The respondent had issued notice dated 31.03.2008, after 45 years of settlement proceedings and they had abandoned and relinquished their rent. The cause of action mentioned in the complaints is illusory and therefore, the claim of the respondent is barred by limitation. The learned Judge ought to have seen that if cause of action is illusory, the law of limitation will consequently apply and there is no need for the Court to re-agitate the issue to be determined in the suit. The issue of law of limitation also can be decided as per Order VII Rule 11(d) of C.P.C. Even if quit rent is paid by the petitioners, it will not revive the right of the



respondent and the same is barred by limitation.

8.In support of his contentions, the learned counsel appearing for the petitioners, relied on the following judgments:

(i) ***(1977) 4 SCC 467 [T.Arivandandam Vs. T.V.Satyapal and another]***:

“5.We have not the slightest hesitation in condemning the petitioner for the gross abuse of the process of the court repeatedly and unrepentantly resorted to. From the statement of the facts found in the judgment of the High Court, it is perfectly plain that the suit now, pending before the First Munsif's Court, Bangalore, is a flagrant misuse of the mercies of the law in receiving complaints. The learned Munsif must remember that if on a meaningful-not formal-reading of the complaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under Or. VII r. 1 C.P.C. taking care to see that the ground mentioned therein is fulfilled. And, if clever, drafting has created the illusion of a cause of action, nip it in the bud at the first hearing by examining the party searchingly under Order X C.P.C. An activist Judge is the answer to irresponsible law suits. The trial court should insist imperatively on examining the party at the first bearing so that bogus litigation can be shot down at the earliest stage. The Penal Code (Ch. XI) is also resourceful enough to meet such men, and must be triggered



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against them. In this case, the learned Judge to his cost realised what George Bernard Shaw remarked on the assassination of Mahatma Gandhi "It is dangerous to be too good." "

(ii) (1985) 4 SCC 10 [State of Tamil Nadu Vs. Ramalinga

Samigal Madam]:

“14..... In other words since the Settlement Officer has no power to do what Civil Court would normally do in a suit it is difficult to imply ouster of Civil Court's jurisdiction simply because finality has been accorded to the Settlement Officer's order under s. 64- C of the Act.

15.Counsel for the appellants invited our attention to two decisions of this Court one in [M. Chayana v. K. Narayana](#),(1) under the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act 26 of 1948 and the other in [O. Chenchulakshamma v. D. Subramanya](#)(2) under the Madras Estates (Abolition and Conversion into Ryotwari) Act 26 of 1948. It may be stated that both the enactments (the [A.P. Act](#) as well as the Madras Act) contain substantially identical provisions and in particular [s. 56](#) with which the Court was concerned in the two cases is in identical language. Sub-sec (1) of sec. 56 provides that

"whereafter an estate is notified, a dispute arises as to (a) whether any rent due from a ryot for any Fasli year is in arrear or (b) what amount of rent is in arrear or (c) who the lawful ryot in respect of any holding is, the dispute shall be decided by the Settlement Officer".

Sub- sec. (2) provides for an appeal to the tribunal against the decision of the Settlement Officer and the tribunal's decision in



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appeal has been rendered final and not liable to be questioned in a Court of law. In both the cases this Court has taken the view that a dispute between two rival claimants as to who is the lawful ryot entitled to the patta of the holding in question had been exclusively left to the determination of the Settlement Officer under that provision and since finality has been accorded to such determination which is not liable to be called in question in any Court of law the Civil Court's jurisdiction to adjudicate upon such dispute has been excluded. Relying upon these decisions, counsel for the appellant urged before us that the civil court's jurisdiction to adjudicate upon the issue of real nature or character of the land should be held to have been excluded under s. 64-C of the Act which also accords finality to the Settlement Officer's order refusing to grant the ryotwari patta to a ryot under [s. 11](#) of the Act on the ground that the land in question is not ryoti land. It is not possible to accept this contention for the two decisions are clearly distinguishable. In the first place [s. 56](#) with which the Court was concerned in those cases does not contain the words "for the purposes of the Act" which occur in [s. 64-C](#); and presumably in view of the absence of those words in the section this Court in M. Chayana's case observed that there was no warrant for taking the view that the Settlement Officer's decision under [s. 56](#) (1) (c) on the question as to who was the lawful ryot of holding was only for the purpose of indentifying the person liable to pay the arrear of rent. Secondly under [s. 56](#) (1)(c) the Settlement Officer is expressly required to make an inquiry into and decide the question as to who is a lawful ryot of the holding between two rival claimants whereas as stated earlier there is no express provision



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directing an inquiry into the question of the real nature or character of the land while considering a ryot's application for a patta under s. 11 read with the proviso to s. 3(d). In other words, the two provisions are dissimilar. Moreover, it may be pointed out that so far as the Madras Act is concerned by Madras Act 34 of 1958 s. 56 itself has been repealed with effect from 27th December 1958 and s. 9(2) of the repealing Act (No. 34 of 1958) has gone on to provide that all proceeding pending before the Settlement Officer or Tribunal under that section shall abate. As a result of such repeal the Madras High Court in two decisions, Krishna Swami Thevar's case(1) and A.R. Sanjeevi Naicker's(2) case has held that now there is no machinery available under the Madras Act to have a determination of the dispute between two rival claimants regarding their title as to who would be entitled to the patta and s. 11 does not contain machinery for deciding disputed questions of title. Whatever be the position in regard to dispute concerning rival claims or titles, the ratio of the two decisions of this Court on which counsel placed reliance is inapplicable to the issue raised in these appeals for our determination.

16. Having regard to the above discussion we confirm the High Court's view that the Civil Court's jurisdiction to adjudicate on the real nature of the land is not ousted under s. 64-C by reason of the Settlement Officer's decision to grant or refuse to grant a patta under s. 11 read with the proviso to s. 3(d) of the Act. The appeals are, therefore, dismissed but with no costs."

(iii) (2004) 3 SCC 137 [Sopan Sukhdeo Sable and others Vs.



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Assistant Charity Commissioner and others/:

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“19.Order VI Rule 2(1) of the Code states the basic and cardinal rule of pleadings and declares that the pleading has to state material facts and not the evidence. It mandates that every pleading shall contain, and contain only, a statement in a concise form of the material facts on which the party pleading relies for his claim or defence, as the case may be, but not the evidence by which they are to be proved.

20. There is distinction between 'material facts' and 'particulars'. The words 'material facts' show that the facts necessary to formulate a complete cause of action must be stated. Omission of a single material fact leads to an incomplete cause of action and the statement or plaint becomes bad. The distinction which has been made between 'material facts' and 'particulars' was brought by Scott, L.J. in *Bruce v. Odhams Press Ltd.* (1936) 1 KB 697 in the following passage :

“The cardinal provision in Rule 4 is that the statement of claim must state the material facts. The word "material" means necessary for the purpose of formulating a complete cause of action; and if any one "material" statement is omitted, the statement of claim is bad; it is "demurrable" in the old phraseology, and in the new is liable to be "struck out" under R.S.C. Order XXV, Rule 4 (see *Philipps v. Philipps*); or "a further and better statement of claim" may be ordered under Rule 7.

The function of "particulars" under Rule 6 is quite different. They are not to be used in order to fill material gaps in a demurrable statement of claim - gaps which ought to have been filled by appropriate statements of the various material facts which together constitute the plaintiff's cause of



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action. The use of particulars is intended to meet a further and quite separate requirement of pleading, imposed in fairness and justice to the defendant. Their function is to fill in the picture of the plaintiff's cause of action with information sufficiently detailed to put the defendant on his guard as to the case he had to meet and to enable him to prepare for trial.

The dictum of Scott, L.J. in Bruce case (supra) has been quoted with approval by this Court in [Samant N. Balkrishna v. George Fernandez](#) (1969 (3) SCC 238), and the distinction between "material facts" and "particulars" was brought out in the following terms:

“The word 'material' shows that the facts necessary to formulate a complete cause of action must be stated. Omission of a single material fact leads to an incomplete cause of action and the statement of claim becomes bad. The function of particulars is to present as full a picture of the cause of action with such further information in detail as to make the opposite party understand the case he will have to meet.”

Rule 11 of Order VII lays down an independent remedy made available to the defendant to challenge the maintainability of the suit itself, irrespective of his right to contest the same on merits. The law ostensibly does not contemplate at any stage when the objections can be raised, and also does not say in express terms about the filing of a written statement. Instead, the word 'shall' is used clearly implying thereby that it casts a duty on the Court to perform its obligations in rejecting the plaint when the same is hit by any of the infirmities provided in the four clauses of Rule 11, even without intervention of the defendant. In any event, rejection of the plaint under Rule 11 does not preclude the plaintiffs from presenting a fresh plaint in terms of Rule 13.



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22.Under Order II Rule 1 of the Code which contains provisions of mandatory nature, the requirement is that the plaintiffs are duty bound to claim the entire relief. The suit has to be so framed as to afford ground for final decision upon the subjects in dispute and to prevent further litigation concerning them. Rule 2 further enjoins on the plaintiff to include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action. If the plaintiff omits to sue or intentionally relinquishes any portion of his claim, it is not permissible for him to sue in respect of the portion so omitted or relinquished afterwards. If the plaintiffs as contended by Mr. Mohta want to relinquish some reliefs prayer in that regard shall be done before the trial Court. A reading of the plaint and the reliefs along with the contents of the plaint goes to show that the main dispute relates to the question of continuance of tenancy and the period of tenancy. They are in essence unrelated with the other reliefs regarding enquiry into the affairs of the trust. Such enquiries can only be undertaken under Section 50 of the Act. For instituting the suit of the nature specified in Section 50, prior consent of the Charity Commissioner is necessary under Section 51. To that extent Mr. Savant is right that the reliefs relatable to Section 50 would require a prior consent in terms of Section 51. If the plaintiffs give up those reliefs claimed in accordance with law, the question would be whether a cause of action for the residual claims/reliefs warrant continuance of the suit. The nature of the dispute is to be resolved by the Civil Court. The question of tenancy cannot be decided under Section 50 of the Act. Section



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51 is applicable only to suits which are filed by a person having interest in the trust. A tenant of the trust does not fall within the category of a person having an interest in the trust. Except relief in Para D of the plaint, the other reliefs could be claimed before and can be considered and adjudicated by the Civil Courts and the bar or impediment in Sections 50 and 51 of the Act will have no relevance or application to the other reliefs. That being so, Sections 50 and 51 of the Act would not have any application to that part of the relief which relates to question of tenancy, the term of tenancy and the period of tenancy. The inevitable conclusion therefore is that Courts below were not justified in directing rejection of the plaint. However, the adjudication in the suit would be restricted to the question of tenancy, terms of tenancy and the period of tenancy only. For the rest of the reliefs, the plaintiffs shall be permitted within a month from today to make such application as warranted in law for relinquishing and/or giving up claim for other reliefs.”

(iv) (2012) 8 SCC 706 [Church of Christ Charitable Trust and Educational Charitable Society Vs. Ponniamman Educational Trust]:

“13. While scrutinizing the plaint averments, it is the bounden duty of the trial Court to ascertain the materials for cause of action. The cause of action is a bundle of facts which taken



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with the law applicable to them gives the plaintiff the right to relief against the defendant. Every fact which is necessary for the plaintiff to prove to enable him to get a decree should be set out in clear terms. It is worthwhile to find out the meaning of the words “cause of action”. A cause of action must include some act done by the defendant since in the absence of such an act no cause of action can possibly accrue.

14. In A.B.C. Laminart Pvt. Ltd. & Anr. vs. A.P. Agencies, Salem (1989) 2 SCC 163, this Court explained the meaning of “cause of action” as follows:

“12. A cause of action means every fact, which if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the court. In other words, it is a bundle of facts which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. It must include some act done by the defendant since in the absence of such an act no cause of action can possibly accrue. It is not limited to the actual infringement of the right sued on but includes all the material facts on which it is founded. It does not comprise evidence necessary to prove such facts, but every fact necessary for the plaintiff to prove to enable him to obtain a decree. Everything which if not proved would give the defendant a right to immediate judgment must be part of the cause of action. But it has no relation whatever to the defence which may be set up by the defendant nor does it depend upon the character of the relief prayed for by the plaintiff.”

(v) 2020 SCC Online SC 562 [Dahiben Vs. Arvinbhai Kalyanji]



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Bhanusali (Gajra) and others]:

“**23.13.**If on a meaningful reading of the plaint, it is found that the suit is manifestly vexatious and without any merit, and does not disclose a right to sue, the court would be justified in exercising the power under Order VII Rule 11 CPC.

...

23.15.The provision of Order VII Rule 11 is mandatory in nature. It states that the plaint “shall” be rejected if any of the grounds specified in clause (a) to (e) are made out. If the Court finds that the plaint does not disclose a cause of action, or that the suit is barred by any law, the Court has no option, but to reject the plaint.

.....

24.2. In [T. Arivandandam v. T.V. Satyapal & Anr.](#)⁹ this Court held that while considering an application under Order VII Rule 11 CPC what is required to be decided is whether the plaint discloses a real cause of action, or something purely illusory, in the following words : -

“5. ...The learned Munsiff must remember that if on a meaningful – not formal – reading of the plaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under O. VII, R. 11, C.P.C. taking care to see that the ground mentioned therein is fulfilled. And, if clever drafting has created the illusion of a cause of action, nip it in the bud at the first hearing ...”

25.[The Limitation Act](#), 1963 prescribes a time-limit for the institution of all suits, appeals, and applications. [Section](#)



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2(j) defines the expression “period of limitation” to mean the period of limitation prescribed in the Schedule for suits, appeals or applications. Section 3 lays down that every suit instituted after the prescribed period, shall be dismissed even though limitation may not have been set up as a defence. If a suit is not covered by any specific article, then it would fall within the residuary article.

26. Articles 58 and 59 of the Schedule to the 1963 Act, prescribe the period of limitation for filing a suit where a declaration is sought, or cancellation of an instrument, or rescission of a contract, which reads as under :

<i>Description of suit</i>	<i>Period of limitation</i>	<i>Time from which limitation period begins to run</i>
58. To obtain any other declaration.	Three years	When the right to sue first accrues.
59. To cancel or set aside an instrument or decree or for the rescission of a contract.	Three years	When the facts entitling the plaintiff to have the instrument or decree cancelled or set aside or the contract rescinded first become known to him.”

The period of limitation prescribed under Articles 58 and 59 of the 1963 Act is three years, which commences from the date when the right to sue first accrues.

27. In *Khatri Hotels Pvt. Ltd. & Anr. v. Union of India & Anr.*, this Court held that the use of the word ‘first’ between the words ‘sue’ and ‘accrued’, would mean that if a suit is based on multiple causes of action, the period of limitation will begin to run



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from the date when the right to sue first accrues. That is, if there are successive violations of the right, it would not give rise to a fresh cause of action, and the suit will be liable to be dismissed, if it is beyond the period of limitation counted from the date when the right to sue first accrued.”

(vi) **2021 SCC Online SC 565 [Srihari Hanumandas Totala Vs.**

Hemant Vithal Kamat and others];

“17.Order 7 Rule 11(d) of CPC provides that the plaint shall be rejected “where the suit appears from the statement in the plaint to be barred by any law”. Hence, in order to decide whether the suit is barred by any law, it is the statement in the plaint which will have to be construed. The Court while deciding such an application must have due regard only to the statements in the plaint. Whether the suit is barred by any law must be determined from the statements in the plaint and it is not open to decide the issue on the basis of any other material including the written statement in the case. Before proceeding to refer to precedents on the interpretation of Order 7 Rule 11(d) CPC, we find it imperative to refer to Section 11 of CPC which defines res judicata:

“11. Res judicata.—No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently



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raised, and has been heard and finally decided by such Court.””

(viii) ***Order dated 04.12.2009 made in W.P.No.7649 of 2009***

[Arulmighu Thiruvateeswarar Devasthanam, Triplicane Vs. The State of Tamil Nadu, Land Administration Department and others]:

“4.(iv).The quit rent register of the petitioner clearly clinches the entire issue, since it states in unequivocal terms that the patta stands in the name of a private party with clear description of the property and what is required to be paid is a quit rent which in Tamil means (ஹௌஸ் டீர்) which can be translated as "land tax amount". Hence the document of the petitioner itself is the best document to show that the grant is only for the collection of revenue by way of land tax and nothing more.

.....

12.....

“11.In Ramanatha Aiyar's Law Lexicon, "Quit-Rent" is defined as "A certain small rent, payable by the tenant in token of subjection, by which the tenant goes quiet and free. (Tomlins Law dictionary); Chief rent. This is a small yearly payment made by owners of land to a more or less nominal landlord (2 Blackstone, 42)". There is nothing in Indian Law to show that quit rent is payable only to a melwaramdar by a kudiwaramdar. The question as to the extent of ownership of the person who pays the quit rent and of the person who receives the same has to be decided only on the basis of the entire evidence on record. Hence, that



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reasoning of the Appellate judge is erroneous."

.....

24......"The appellant Adheenam also recognised such Kudivaram rights owned by the ryots for over several decades by permitting them to dispose of their ownership in the lands while retaining its right to collect the beriz or cess amount"."

9.The learned Senior Counsel appearing for the respondent-Temple contended that in an application under Order VII Rule 11 of C.P.C., only averments in the plaint and documents filed along with the plaint can be taken into account to decide whether plaint can be rejected or not. In the present case, the averments in the plaints and documents filed along with the plaints discloses cause of action and hence, claim of the respondent is maintainable. In the reply notice dated 30.04.2008, the petitioners have admitted and furnished the details of the lease entered into between the respondent and Chinnammal, the original lessee and therefore, the contention of the learned counsel for the petitioners that averments in the plaints are vague and particulars with regard to lease given in the plaints are not correct. The documents filed along with the plaints form part of the plaints and it has to be read along with the avements in the plaints.



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The present arguments of the learned counsel for petitioners have no relevance to decide the issue for rejection of plaints. The same can be raised only in defence, by filing written statement and during trial. The common order of the learned Judge is valid and there is no reason to interfere with the said order of the learned Judge. The learned Senior Counsel appearing for the respondent submitted that the judgments relied on by the learned counsel appearing for the petitioners are not applicable to the facts of the present case and prayed for dismissal of all the Civil Revision Petitions.

10. Heard the learned counsel appearing for the petitioners as well as the learned Senior Counsel appearing for the respondent-Temple and perused the entire materials available on record.

11. From the materials on record, it is seen that the petitioners are seeking rejection of plaints on two grounds, under Order VII Rule 11 Clause (a) and (d) of C.P.C., that plaints do not disclose cause of action and suits are barred by law. When an application for rejection of plaint under Order VII Rule 11 of C.P.C. is filed, only material that can be



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considered is the averments made in the plaint and documents filed along with the plaint. The defence taken in the written statement, documents or averments filed in Interim Applications under Order VII Rule 11 of C.P.C are not relevant and cannot be considered while deciding the application to reject the plaint. Considering the averments made in the plaints, it is seen that the respondent is seeking eviction of petitioners and for delivery of vacant possession. In the plaints, the respondent has stated how the respondent is entitled to relief sought for in the suits, how they are owner of the suit property.

12.The respondent has issued notice dated 31.03.2008, as per Section 106 of Transfer of Property Act, terminating the lease and as mentioned in the said notice, if petitioners fail to vacate and deliver vacant possession on 01.04.2008, they will be liable to pay damages for use and occupation. The petitioners sent a reply dated 30.04.2008, through their counsel. In the reply, the petitioners have admitted that in the year 1936, the respondent-Temple conducted public auction and auctioned the lease of the land after obtaining permission from the



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Department. One Chinnammal was successful bidder for house site measuring 534 sq.ft., for a sum of Rs.255/-. The respondent and said Chinnammal entered into registered lease deed dated 27.03.1936, for 50 years, with option to renew the lease for further two years of 50 years each. In the said reply notice, the petitioners have stated that after death of Chinnammal, they have become lessee as legal heirs of Chinnammal. Further, in the end of the said reply notice, the petitioners have stated that they have enclosed a cheque bearing No.407110 dated 27.03.2008, drawn on Indian Bank, Theyagarayanagar, Chennai, for a sum of Rs.744/-, being the rent due and calculated up to 30.06.2008, as per the terms of lease agreement. Apart from these, the petitioners have raised various objections with regard to right of the respondent, proceedings of Settlement Tahsildhar, joint patta, etc.,

13.The averments in the complaints and notice dated 31.03.2008 filed along with the complaints and reply dated 30.04.2008 issued by the petitioners disclose cause of action. Whether the petitioners are co-owners or absolute owners of the suit property and whether as per the proceedings of Settlement Tahsildar, Special Appellate Tribunal and



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withdrawal of proceedings in Second Appeal is binding on the petitioners and whether they can claim ownership of the suit property can be decided only after full fledged trial and the contentions raised by the petitioner in the present application cannot be considered and decided in the applications filed under Order VII Rule 11 of C.P.C. The learned Judge has considered all the materials placed before him, scope of Order VII Rule 11 of C.P.C, judgments relied on by the parties and dismissed all the Interim Applications. In view of the above, the judgments relied on by the learned counsel appearing for the petitioners do not advance the case of the petitioners. The learned Judge has considered the entire materials and dismissed all the applications by giving cogent and valid reason. There is no error or irregularity in the order of the learned Judge, warranting interference by this Court.

For the above reason, all the Civil Revision Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed. It is open to the petitioners to prove their contention by letting in oral and documentary evidence, without being influenced by the common order



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passed in I.As. as well as in the Civil Revision Petitions.

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02.12.2021

Index :: Yes/No
gsa

To
The XVI Assistant Judge,

City Civil Court, Chennai.



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V.M.VELUMANI, J.

gsa

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