

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No.3029 of 2015 and  
MP.No.1 of 2015

1.Govindan  
2.Geetha Govindan

..Petitioners

Vs.

1.N.A.Jay John  
2.C.Sathaiah

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the order dated 23.01.2015 passed in IA.No.762 of 2012 filed under Order VII Rule 11 of CPC in OS.No.183 of 2012 on the file of Principal District Munsif Court at Kancheepuram.

For Petitioners : Mr.B.Manoharan

For Respondents : No Appearance

**ORDER**

This Civil Revision Petition is directed as against the fair and decreetal order passed in IA.No.762 of 2012 in OS.No.183 of 2012 dated 23.01.2015 on the file of the Principal District Munsif Court, Kancheepuram thereby

dismissing the petition filed for rejection of plaint under Order VII Rule 11 of CPC.

2. Though notice was served to the respondents, none appeared on behalf of them before this Court in person or through pleader.

3. The learned counsel for the petitioners would submit that the petitioners are defendants in the suit filed by the respondents herein for injunction in respect of the suit property. The petitioners are the absolute owners of the property and it was purchased by the registered sale deed dated 20.07.2006. They went to abroad for avocation. Utilising the said circumstances, the second respondent herein impersonated the petitioners and executed sale deed in his favour dated 15.11.2010 registered vide document No.2715 of 2010. In turn he also executed power of attorney in favour of one, Jayaprakasam to deal with the suit property. On the strength of the power of attorney dated 22.07.2011, the said Jayaprakasam executed sale deed in favour of the first respondent herein dated 14.03.2012.

3.1 He further submitted that when the petitioners came to knowledge about the crime committed by the respondents herein, immediately lodged complaint before the District Registrar. After conducting due enquiry,

the District Registrar by an order dated 18.06.2012 by proceedings No.2949/A2/2012 annulled the sale deed executed in favour of the respondents herein. In fact, the District Registrar directed the Sub Registrar concerned to lodge complaint for the crime committed by the respondents herein. Accordingly, the Sub Registrar lodged complaint and the crime has been registered as against the respondents and it is pending for investigation. In the meantime, the respondents filed suit on the strength of those sale deeds for injunction as the petitioners. Immediately, the petitioners filed petition for rejection of plaint. On the strength of their case, the petitioners have marked Exs.P1 to P3, the sale deeds executed in favour of the petitioners and fabricated sale deeds.

4. On perusal of the sale deeds, it is seen that the petitioners were impersonated by the respondents and executed sale deeds in their favour as if the petitioners executed sale deed in their favour. Unfortunately the trial court dismissed the petition for the reason that whether the sale deeds standing in the name of the respondents have been cancelled or not is the issue for disposal at the time of trial after recording oral and documentary evidence on both sides and not at this stage. In fact, the trial court also recorded the proceedings of the District Registrar dated 18.06.2012 thereby cancelled the sale deeds executed in favour of the respondents herein.

5. In view of the fact that already sale deeds executed in favour of the respondents were cancelled by the District Registrar and on the direction issued by the District Registrar, the Sub Registrar also lodged complaint and the same has been registered against the respondents herein, and FIR is pending for investigation. Therefore the present suit is nothing but clear abuse of process of court and only to escape from the clutches of criminal law, the present suit has been filed. In fact, the cause of action for filing the present suit is that the complaint lodged by the petitioners herein before the Land Grabbing Cell. Therefore, there is no cause of action to file the present suit. As such, the order passed by the trial court is perverse and liable to be set aside.

6. Accordingly, this civil revision petition is allowed, and the order dated 23.01.2015 passed in IA.No.762 of 2012 filed under Order VII Rule 11 of CPC in OS.No.183 of 2012 on the file of Principal District Munsif Court at Kancheepuram is set aside. Consequently, connected miscellaneous petition is closed. No order as to costs.

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08.01.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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To

The Principal District Munsif Court  
at Kancheepuram.



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**G.K.ILANTHIRAIYAN,J.**

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