



IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 15.03.2021

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.(PD)No.537 of 2021

and

C.M.P.No.4625 of 2021

R.Karuppannan

...Petitioner

Vs

K. Arjunan (died)

1. Meenakshi

2. Vijaya

3. Santhi

4. Saroja

5. Kalaimani

6. S.Ameen

7. Syed@Shah Nawaz

8. M.Bharath Kumar

A.Habibunnisha @ Aliya Begum (Died)

9. Nasheem Banu

10.A.Syed Rashid

11.Shayeena Banu

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to strike off the entire suit proceedings in O.S.No.1093 of 2008 on the file of the District Munsif Court, Salem.

For Petitioner : Mr.S.Conscious Ilango

O R D E R

The limited prayer sought for in this petition is for a direction to strike off the entire suit proceedings in O.S.No.1093 of 2008 on the file of the District Munsif Court, Salem.

2. The defendants 1 to 5 filed the suit in O.S.No.1093 of 2008, seeking for the following relief:

(i) granting permanent injunction against the defendants restraining them and their men in any manner interfering with the plaintiffs' peaceful possession and enjoyment of the suit



property.

(ii) directing the defendants to pay the costs of the suit to the plaintiffs;

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3. The learned counsel for the petitioner would submit that the suit is an abuse of process of law, filed with ulterior motive and not maintainable. The suit itself is not maintainable in law, in view of the statutory bar in Section 6 of Tamil Nadu Cultivating Tenants Protection Act, 1955, excluding the jurisdiction of the civil Court. The suit seeking for injunction on the only pleading of status of the plaintiff as cultivating tenant, is not maintainable, as the civil Court is barred from granting any declaratory relief of such status, in view of the statutory prohibition on the civil Court and the conferment of power on the authority under the Act. The above suit instituted under the colour of bare suit for Permanent Injunction, but making the claim purely on the statement of cultivating tenant, is nothing but a suit for indirect declaration of the status of plaintiff as cultivating tenant. The claim of status of cultivating tenant, being denied by the defendants, the Civil Court has no jurisdiction and authority to decide the same in view of the express bar under Section 16-A of the Act X of 1969 and under Section 6 of the Act XXV of 1955. When the suit is only on an allegation of threat of eviction by the third respondent and when the fact remains that the third defendant had not purchased the suit property at any point of time, there was no cause of action for filing such suit. Further, the learned counsel for the petitioner would state that the filing of the suit by the plaintiff, without even knowing the ownership and the person in possession of the suit property itself, would speak for the truth that the suit is filed for a collateral purpose with the spurious claim and such a frivolous and vexatious suit amounts to abuse of process of Court and the same is liable to be rejected in limine. Hence, the learned counsel for the petitioner prays to allow this petition.

4. Heard the learned counsel for the petitioner and perused the materials placed before this Court.

5. It is seen from the typed set of papers, the suit had been filed in the year 2008 for granting permanent injunction against the defendants restraining them and their men in any manner interfering with the plaintiffs' peaceful possession and enjoyment of the suit property. The petitioner herein has been impleaded in the suit as eight defendant and time was given to the eight defendant for filing his written statement. The eight defendant filed his written statement on 23.10.2018, denying all the averments, which has been stated as a ground in the suit. He also admitted that the first defendant is the legal heir. But,



it is false to allege that the plaintiff is paying the rent regularly to the landlord. The suit property was stated to be a Wakf property. It is false to allege that the defendant's previous owners have obtained patta without the permission of the Wakf Board and hence, the property is not a Wakf property as alleged. Issues were framed in the main suit by the Court below and P.W.1 is examined and Ex.A.15 were marked and the same has been pending for cross examination of P.W.2. Due to national wide lockdown, the Court could not proceed further. In I.A.No.3 of 2019, fresh notice was ordered to the respondents 10 to 15. This Court is of the view that the petitioner cannot raise all these grounds by filing this suit in O.S.No.1093 of 2008, since he was subsequently impleaded as a party to the proceedings.

6. In view of the present stage of the suit in O.S.No.1093 of 2008, which has been pending for more than 12 years, this Court directs the learned District Munsif, Salem to consider the stage of the case and dispose of the same within a period of one year from the date of receipt of copy of this order.

7. Accordingly, the Civil Revision Petition stands disposed of. No costs. Consequently, connected Miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sbn

To

The District Munsif Court,
Salem.

C.R.P.(PD)No.537 of 2021
and
C.M.P.No.4625 of 2021

SR(CO)
PM(15/07/2021)



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V.BHAVANI SUBBAROYAN, J.

sbn

15.03.2021