

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2021

CORAM

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

CRP (PD) No.1163 of 2016

1.Aruchamy
2.Jayaraj
3.Selvaraj
4.Periasamy
5.Sarasal
6.Rangammal

..Petitioners

Vs.

P.Ramasamy

..Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 18.01.2016 made in I.A.No.633 of 2015 in O.S.No.15 of 2015 on the file of the District Munsif, Sathyamangalam.

For Petitioners : Mr.S.Parthasarathy

For Respondent : Mr.D.R.Arunkumar

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 18.01.2016 made in I.A.No.633 of 2015 in O.S.No.15 of 2015 on the file of the District Munsif, Sathyamangalam, thereby dismissing the petition for rejection of plaint.

2. The learned counsel for the petitioners would submit that the petitioners are the defendants and the respondent is the plaintiff. The respondent filed a suit under Section 6 of the Specific Relief Act 1963 for direction, directing the defendants to vacate and deliver the vacant possession.

3. According to the respondent, on 01.01.2015, the petitioners have encroached the suit property . Even according to the respondent, he did not give proper extent of the property, in which encroachment of the suit property was made by the petitioners herein. Further he submitted that in the last week of December 2014 also the petitioners encroached a portion of the respondent. When a suit was filed under Section 6 of the Specific Relief Act, he must be dispossessed for the suit property within six months prior to the date of the suit. Therefore, the suit itself is not maintainable.

4. However, the Court below dismissed the petition for the reason that there are contradictions of facts and it will be decided only after the conclusion of the trial. After dismissing the petition for rejection of plaint, the respondent filed a petition for amendment of plaint and the same was allowed. Thereafter, the trial commenced and the matter was posted for arguments on 19.10.2016.

5. Heard the learned counsel for the petitioners and the learned counsel for the respondent.

6. The respondent filed a suit under Section 6 of the Specific Relief Act. According to the respondent, the total extent of the suit property is only 1.88 acres comprised in S.F.No.8/1A2H, Sathyamangalam Taluk in which ad-measuring 35.87 cents or 15,625 sq.ft measuring 350 on North and South, 60 on East and 35 on West as shown in the plaint plan and also specifically mentioned the boundary. The petitioners have encroached the suit property. Further, though the respondent stated that in the last week of December 2014 part of the suit property was encroached by the petitioners and subsequently stated that on 01.01.2015, the petitioners have encroached the suit property, it is seen that the suit was filed on 11.02.2015 and as such, the suit was filed within the time stipulated under Section 6 of the Specific Relief Act. That apart, the entire trial has been completed and the matter is now posted for arguments. Therefore, this Court finds no illegality or infirmity in the order passed by the Court below Hence, the Civil Revision Petition is dismissed.

G.K.ILANTHIRAIYAN, J.,

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The Trial Court is directed to dispose of the suit within a period of eight weeks from the date of receipt of a copy of this order. No costs.

25.03.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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To

The District Munsif,
Sathyamangalam.



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