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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2021

CORAM:

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P. No.1629 of 2021
and C.M.P.No.12668 of 2021
(Through Video Conference)

Ramasamy

..Petitioner/Defendants

Versus

- 1) Kasthuri
- 2) Govindhammal
- 3) Meenatchi
- 4) Dhanalakshmi
- 5) Lakshmi
- 6) Pandian @ Ilanchezhian

..Respondents/Plaintiffs

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the returning of the Interlocutory Application dated 29.03.2021 even without numbering it and by not considering the merits, which was filed by the petitioner herein on the non-availability of the suit in O.S.No.1162 of 2016 on the file of the Learned Court of II Additional District Munsif at Puducherry.

For Petitioner : Mr.A.Raymond

O R D E R

This Civil Revision Petition is filed seeking to pass orders that the suit in O.S.No.1162 of 2016 pending on the file of II Additional District Munsif at Puducherry is not maintainable.

2. Learned counsel for the petitioner submitted that the respondents filed a suit for bare injunction against the petitioner seeking that the petitioner should not disturb their possession and enjoyment of the suit property. The respondents have no title to the suit property and the petitioner has the title to the suit property. The petitioner has raised in his written statement that the respondents should have filed a suit for declaration of title but they have filed only a suit for bare injunction. He also relied the Ruling made in M.Ramamoorthy Vs. R. Thirunavukkarasu reported in 2015 (5) CTC 730 for a proposition that when the title to the property is disputed, the



suit for bare injunction is not necessary and the suit should have been filed for declaration of title along with consequential relief of injunction.

3. Considered the rival submissions. As stated earlier, the suit in O.S.No.1162 of 2016 was filed by the respondents seeking the relief of permanent injunction restraining the petitioner, his men, family member, agents etc. from interfering or disturbing the respondent's peaceful possession and enjoyment of the suit property. It is seen that, in paragraph no.17 of the written statement of the petitioner, it is said that the validity of the documents filed, to be decided since there is a dispute with regard to title. The contentions that respondents should have filed a suit for declaration of title but only a suit for bare injunction is filed is only suggestive in nature. There is no specific plea in the written statement that the suit, filed without a prayer for declaration of title, is not maintainable. Even as per the submissions made by the learned counsel for the petitioner that both the parties are claiming right to the suit property through different documents. There are triable issues involved in this case which required oral and documentary evidence. It is open to the learned II Additional District Munsif at Puducherry to frame the issue with regard to maintainability of the suit without a prayer for declaration of title and decide the issue.

4. The suit was filed in the year 2016 but this petition is filed only in the year 2021. Learned counsel for the petitioner further submitted that he filed this petition under Section 151 of the Civil Procedure Code before the trial Court on the ground that suit for bare injunction is not maintainable. As indicated earlier, the learned II Additional District Munsif at Puducherry is directed to dispose ***unnumbered I.A.No. /2021** in the manner known to law after hearing the petitioner.

5. Accordingly, this Civil Revision Petition is Disposed of. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

sts



To:

The II Additional District Munsif,
Puducherry

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Copy to
The Section Officer
ER Section
High Court, Madras 104.

+1cc to Mr.Babu Rangasamy Associates, S.R.No.40848 (15/09/2021)

C.R.P. No.1629 of 2021

MG(CO)
SP(14/09/2021)