



C.R.P.(PD).No.2380 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(PD).No.2380 of 2021

and

C.M.P.No.18112 of 2021

Suresh Chandra SokmaliBafna
Represented by its Power of Attorney Agent
A.Ramesh, Having Office at
No.22, Mullah Saheb Street,
Sowcarpet, Chennai – 600 079.

.. Petitioner

Vs.

Mari (Died)

1.M.Raghu

2.K.Sekar

3.Kattan

4.Karpagam

5.Kala

6.R.Kumar

..Respondents



C.R.P.(PD).No.2380 of 2021

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair order and decreetal order dated 02.09.2021 in I.A.No.7 of 2021 in O.S.No.44 of 2010 on the file of the Additional District Munsif Court at Thiruvallur and to allow the application with costs throughout.

For Petitioner : Mr.M.V.Seshachari

ORDER

This Revision has been filed by the 2nd defendant in O.S.No.44 of 2010 pending on the file of the Additional District Munsif, Thiruvallur, challenging the order dismissing their application under Order VII Rule 11 of the Code of Civil Procedure, on the ground that the plaint does not disclose the cause of action.

2. The suit was filed by the respondents 1 to 6 herein seeking a permanent injunction restraining the defendants from interfering with their peaceful possession and enjoyment of the property. According to the plaintiffs, the property belonged to their ancestors and they have been in possession through out.



C.R.P.(PD).No.2380 of 2021

3. The suit was resisted by the petitioner herein contending that the suit property was sold by the plaintiffs' ancestors under the sale deed dated 10.09.1984 and the present petitioner has purchased the property from the purchaser under that sale deed in the year 2006. The petitioner herein has also filed another suit in O.S.No.46 of 2010 seeking injunction and both the suits have been directed to be tried jointly.

4. The present application for rejection of plaint has been filed on the ground that the suit does not disclose cause of action. The main contention of the petitioner is that there is a discrepancy in the date of death of one of the vendors of the plaintiff in the death certificate and the pleadings. Therefore, the suit suffers from want of cause of action.

5. It is a settled law that in considering an application under Order VII Rule 11 of the Code of Civil Procedure, the Court should assume that the pleadings are true. The evidence cannot be gone into at this stage. The learned Additional District Munsif has considered the issue and came to a conclusion that the ground alleged for rejection of the plaint is not one



C.R.P.(PD).No.2380 of 2021

which would fall under Order VII Rule 11 of the Code of Civil Procedure.

WEB COPY

6. I do not find any reason to interfere with the said conclusion of the learned Judge and I do not find any material irregularity in the order of the trial Judge. Hence, the Revision fails and it is accordingly **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

08.11.2021

dsa

Index : No

Internet : Yes

Speaking order

To

The Additional District Munsif,
Thiruvallur



WEB COPY



C.R.P.(PD).No.2380 of 2021

R.SUBRAMANIAN, J.

dsa

C.R.P.(PD).No.2380 of 2021

08.11.2021