



WEB COPY

C.R.P. (MD) No.866 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **24.11.2021**

CORAM :

THE HONOURABLE MS.JUSTICE **P.T.ASHA**

C.R.P. (MD) No.866 of 2020

and

C.M.P. (MD) No.5720 of 2020

1.Pushpa Leela

2.Rajappa

3.Rajasekaran

... Petitioners/Defendants 1 to 3

vs.

Louis Raja

... Respondent/Plaintiff

PRAYER:- This Petition is filed under Section 115 of the Code of Civil Procedure, to strike off the plaint in O.S.No.99 of 2020 on the file of the District Munsif Court, Thirumangalam.

For Petitioners : Mr.N.S.Ponnaiah

For Respondent : Mr.V.Ganapathy Subramanian

ORDER

The defendants 1 to 3 in the suit in O.S.No.99 of 2020 on the file of the learned District Munsif, Thirumangalam, have filed this Civil Revision Petition invoking the jurisdiction of this Court under Article 227 of the Constitution of India to strike off the plaint.

2.The respondent/plaintiff has filed a suit in O.S.No.99 of 2020 for the relief of injunction restraining the defendants from demolishing the wall in the suit property. It appears that one Francis Xavier has also filed a suit in O.S.No.11 of 2017 on the file of the learned Principal District Judge, Madurai, for partition and separate possession of his 1/7th share to the plaintiff, to declare that the settlement deed executed by the 1st defendant in favour of the 7th defendant on the file of the Madurai Joint Registrar-I dated 17.11.2015 is null and void, to declare that the sale deed executed by the 1st defendant in favour of the 8th defendant dated 09.05.2016 before the very same Madurai Joint Registrar-I is null and void and for permanent injunction restraining the defendants from further alienating the property. The 1st defendant and the 2nd defendant in O.S.No.11 of 2017 are the plaintiff and the 1st defendant in the suit in O.S.No.99 of 2020.



3.The basis on which the plaintiff would claim a right on the property was that the plaintiff's father and mother, who were working as Teachers, had purchased the suit schedule properties in the name of their father, Valai Thevar. The plaintiff and the defendants 1 to 5 are siblings. Till the demise of the father, he was maintaining the suit schedule properties. The said Valai Thevar died on 31.12.2008 intestate and the revenue records thereafter were mutated in the name of the plaintiff and the defendants 1 to 5 and their mother, the 6th defendant. She had also passed away on 03.12.2016 and thereafter, the property devolved only on the plaintiff and the defendants 1 to 5. The 1st defendant with an intention to cheat the others created a settlement deed in favour of his wife in respect of the 1st item of the suit schedule property. It is the case of the plaintiff that the defendants 1 to 5 had created various documents to deprive him of his share and consequently, he was constrained to file the suit in question.

4.During the pendency of the suit in O.S.No.11 of 2017, the 1st defendant, namely, Louis Raja, has filed a suit in O.S.No.99 of 2020, which is the subject matter of the present proceedings, for injunction restraining the defendants from interfering with his peaceful possession and enjoyment of the suit schedule property. The defendants have come forward with this revision petition to strike off the plaint in O.S.No.99 of 2020. However, perusal of the grounds of revision does not set forth any ground for striking off the plaint. The only ground, which merits consideration is that the respondent herein has suppressed filing of the suit in O.S.No.11 of 2017. This is an issue, which has to be raised as a defense and is not a ground for striking off the plaint. The learned counsel for the petitioners have not given sufficient reasons or grounds for striking off the plaint. The plaint makes out a cause of action and considering the fact that while considering an application to reject the plaint, the Court shall only consider the plaint and the documents filed therein and no other document, a reading of the plaint in the instant case makes out a cause of action.

5.In the result, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



To

1.The Principal District Judge,
Madurai.

2.The District Munsif,
Thirumangalam,
Madurai.

C.R.P. (MD) No.866 of 2020

C.R.P. (MD) No.866 of 2020
24.11.2021

RK(15/12/2021) 3P 3C