



C.R.P.(PD).No.423 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2022

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD).No.423 of 2022

&

C.M.P.No.2166 of 2022

D.Sridhar

...Petitioner

Vs

1.G.Malathy

2.Meenakshi

3.P.Palani @ Palanikani

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India seeking an order strike off the plaint in O.S.No.2109 of 2021 on the file of XIV Assistant City Civil Court, Chennai.



C.R.P.(PD).No.423 of 2022

For Petitioner : Mr.S.Elambharathi

ORDER

The 4th defendant in the suit O.S.2109 of 2021 pending on the file of the XIV Assistant City Civil Court, Chennai, has filed this revision invoking the superintending powers of this Court to strike of the plaint in the said suit. The grounds on which the revision has been filed are as follows:

(a)The suit is an abuse of process of the Court.

(b)Material facts had been suppressed.

(c)The cause of action is illusory.

2.In order to appreciate this petition, it is necessary to briefly touch upon the facts leading to the filing of this Civil Revision Petition. The property, which is the subject matter of the suit belonged



C.R.P.(PD).No.423 of 2022

WEB COPY

to one E.K.Pattabiram. The revision petitioner would contend that the said E.K.Pattabiram had released his right in the property in favour of his younger brother E.K.Ellaiya Reddiar, who inturn executed settlement deed dated 28.05.1987 in favour of the revision petitioner's father Damodaran. This settlement deed was kept pending in the Sub Registrar Office, Saidapet from the year 1987 as E.K.Ellaiya Reddiar expired on 06.06.1987 after presenting the documents.

3.The revision petitioner would submit he had filed W.P.No.1074 of 2005 before this Court for a direction to the Sub Registrar to register the settlement deed and by order dated 18.04.2009, the District Registrar was called upon to hold enquiry and pass orders. Thereafter, the District Registrar had rejected the appeal filed by the revision petitioner.



C.R.P.(PD).No.423 of 2022

WEB COPY

4.It is the case of the revision petitioner that when the Writ Petition was pending, one Varadarajan had trespassed into the property with his men claiming to be a legal heir of the said E.K.Pattabiram and a complaint was lodged with the Saidapet Police station. The revision petitioner on enquiry also came to know that one Kuttiyammal's name had been included as the owner of the property. Pending this proceedings, Varadarajan had executed a release deed in favour of the 2nd respondent claiming to be the legal heir of Kuttiyammal. The 2nd respondent in turn had executed a power of attorney in favour of the 3rd respondent.

5. Challenging these illegal acts, the revision petitioner had filed a complaint before Metropolitan Magistrate, Saidapet against Varadarajan and the 2nd and 3rd respondents. It appears that the 2nd respondent through the power agent, the 3rd respondent had executed a sale deed dated 19.02.2018 in favour of the 1st respondent and the 1st



C.R.P.(PD).No.423 of 2022

WEB COPY

respondent in turn had executed a power of attorney in favour of the 4th respondent. The 4th respondent and the husband of the 1st respondent was arrested by the CCB, Team XVII, Chennai and the Special Metropolitan Magistrate (Land Grabbing – II) grants interim bail on the undertaking given by them that they would cancel the sale deed dated 19.02.2018 and the power of attorney dated 21.02.2018.

6. It is the contention of the revision petitioner that without doing so, the suit in O.S.No.2109 of 2021 has been filed and therefore the same being an abuse and vexatious litigation has to be struck of.

7. This was the sum and substance of the arguments of the learned counsel for the revision petitioner.

8. Heard the learned counsel and perused the records.



C.R.P.(PD).No.423 of 2022

WEB COPY

9. A perusal of the plaint in O.S.No.2109 of 2021 would indicate that the plaintiff / 1st respondent has narrated the arrest of her husband and herself on the basis of the complaint lodged by the revision petitioner herein that her brother had fabricated and forged documents and converted title of the suit property in their favour. Neither the plaintiff nor her husband has in any way connected with the said offence. The plaintiff would submit that they are the bonafide purchasers for value.

10. The plaintiff / 1st respondent's contention is that she had been coerced and threatened into executing the cancellation deed on 19.06.2019 and 21.06.2019 respectively. The said act is not a voluntary one or out of the free will and volition of the plaintiff but only on account of threat and coercion. The plaintiff had therefore pleaded that since the cancellation was only on account of threat and



C.R.P.(PD).No.423 of 2022

WEB COPY

coercion, the same had to be declared as null and void and not binding on the plaintiff. It has been time and again held that while considering the petition for rejecting a plaint, only contents of the plaint have to be taken note of.

11. In the instant case, a reading of the plaint would indicate the cause of action for filing the suit and there is no suppression on the part of the plaintiff in as much as she has clearly narrated the complaint filed and the details about quash petition filed by them and the granting of bail.

12. It is for the revision petitioner to prove the case by letting in evidence and not by seeking to strike of the plaint at the very inception, particularly when the plaintiff has made out a cause of action for filing of the suit.



C.R.P.(PD).No.423 of 2022

WEB COPY

13. In these circumstances, the Civil Revision Petition stands dismissed. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

23.02.2022

kan

Index : Yes/No

Speaking order/non-speaking order

To

The XIV Assistant City Civil Court,
Chennai.



WEB COPY



C.R.P.(PD).No.423 of 2022

P.T.ASHA, J.,

kan

C.R.P.(PD).No.423 of 2022

23.02.2022