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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 17TH DAY OF MARCH 2022

THE HON'BLE MR. JUSTICE P.VELMURUGAN

A.No.1129 of 2019

in

C.S.No.20 of 2019

Dr.M.A.M.Ramaswamy Chettiar,
of Chettinad Charitable Trust,
Represented by its Managing
Trustee Dr.A.C.Muthiah, (aged 76 years),
Chettinad House, R.A.Puram,
Chennai 600028.

.. Plaintiff

-Vs-

1. M.A.M.R.Muthiah, (aged 46 years),
Group Managing Director
Rani Seethai Hall Building
5th Floor, 603, Annasalai
Chennai 600006.

2. The Regional Transport Officer,
Chennai (South East),
Chennai 600028.

.. Defendants

A.No.1129 of 2019:-

M.A.M.R.Muthiah,
Group Managing Director
Rain Seethai Hall Building
5th Floor , 603 Anna Salai
Chennai 600 006.

...Applicant/1st Defendant

-VS-



Represented by its Managing
Trustee Dr.A.C.Muthiah, (aged 76 years),
Chettinad House, R.A.Puram,
Chennai 600028.

...1st Respondent/Plaintiff

2. The Regional Transport Officer,
Chennai (South East),
Chennai 600028.

...2nd Respondent/2nd Defendant

Application praying that this Hon'ble Court be pleased to reject the
plaint in CS 20 of 2019, filed by the plaintiffs as clear abuse of process and
does not disclose any cause of action.

This Application having been heard on 25.02.2022 in the presence of
Mr.V.Raghavachari, for M/s.T.Balaji, Advocate for the Applicant herein
and Mr.R.Srinivas Advocate for the 1st respondent herein and
Dr.S.Suriya, Additional Government Pleader appearing for the 2nd
respondent herein and upon reading the Judges Summons and the affidavit
of M.A.M.R.Muthiah and the Counter Affidavit of Dr.A.C.Muthiah filed
herein and having stood over for consideration till this date and coming on
this before this court for orders in the presence of the said advocates for the
parties hereto and this Court having observed that a careful reading of the
plaint itself clearly shows that the plaint discloses cause of action and the
applicant/1st defendant has not established any reason to reject the plaint as
contemplated under order VII Rule 11 CPC and,



It is ordered:-

WEB COPY That the A.No.1129 of 2019, be and is hereby dismissed.

WITNESS THE HON'BLE MR.JUSTICE MUNISHWAR NATH
BHANDARI CHIEF JUSTICE, HIGH COURT AT MADRAS
AFORESAID, THIS THE 17TH DAY OF MARCH 2022.

Sd./-
ASSISTANT REGISTRAR (O.S.II)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)
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04.04.2022

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4

A.No.1129 of 2019
in
C.S.No.20 of 2019

ORDER :-

DATED :17.03.2022

THE HON'BLE MR. JUSTICE
P.VELMURUGAN

FOR APPROVAL: 8.4.2022

APPROVED ON: 08.4.2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 25.02.2022	Delivered on 17.03.2022
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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

A.No.1129 of 2019

in

C.S.No.20 of 2019

Civil Suit No.20 of 2019 is filed under Order IV Rule 1 of Original Side Rules read with Order VII Rule 1 of the Code of Civil Procedure by the plaintiff against the defendants to declare all the vehicles described in Schedule to the plaint belong to the Plaintiff trust and consequentially seeking for a mandatory injunction directing the first defendant to return the vehicles listed as item 11 and 12 to the plaintiff and for other reliefs.

2. After filing of the Suit, the 1st defendant has taken out an application in A.No.1129 of 2019 seeking to reject the plaint in C.S.No.20 of 2019, filed by the plaintiff as a clear abuse of process and does not disclose any cause of action.

3. The case of the plaintiff is that one Dr.M.A.M.Ramaswamy Chettiar had executed a deed of declaration of trust dated 09.02.2015 duly registered as the document No.51 of 2015 in the office of the Sub Registrar,

Mylapore constituting Dr.M.A.M.Ramaswamy Chettiar of Chettinad



Charitable Trust (for short Plaintiff Trust). The said

Dr.M.A.M.Ramaswamy Chettiar orally gifted 12 vehicles to the private trust which was executed by Dr.M.A.M.Ramaswamy Chettiar on 16.02.2015. After the demise of Dr.M.A.M.Ramaswamy Chettiar, the plaintiff requested the second defendant to transfer the ownership of the vehicles in the name of Plaintiff Trust. The second defendant did not respond to the request, the plaintiff filed a Writ Petition in W.P.No.8601 of 2016. This Court on 28.07.2016 disposed the Writ Petition by directing the second defendant to consider both the applications of plaintiff as well as 1st defendant in accordance with Section 56 of the Motor Vehicles Act 1956, after giving sufficient opportunity to both the parties, within a period of two months from the date of receipt of a copy of the order.

4. The second defendant who in turn conducted an enquiry and passed an order on 27.02.2017 stating that in the light of disputed facts and legal issues, proper conclusion could not be reached at that stage and hence the applications submitted by the parties were returned and they were directed to approach the appropriate legal forum. Challenging this order, the Plaintiff Trust once again filed a writ petition in W.P.No.11045 of 2017 before this Court. This Court by order dated 13.07.2018, dismissed the Writ

Petition stating that there was a disputed fact involved in the Writ Petition and the Plaintiff Trust has to work out their remedy in the manner known to



law. After dismissal of the Writ Petition, the Plaintiff Trust has filed the Suit in C.S.No.20 of 2019.

5. According to the applicant/1st defendant he is an adoptive son of Dr.M.A.M.Ramaswamy Chettiar and after demise of the Dr.M.A.M.Ramaswamy Chettiar, the applicant/1st defendant is the absolute owner of the suit schedule properties and the claim of the first respondent/Plaintiff Trust is that father of the applicant/1st defendant Dr.M.A.M.Ramaswamy Chettiar originally gifted the movables belonging to him as per clause 9(iii) of the Trust deed dated 16.02.2015 to the purported Trust viz., Dr.M.A.M.Ramaswamy Chettiar of Chettinad Charitable Trust is incorrect. Further, the father of the applicant/1st defendant executed any trust deed or not itself is a dispute of serious nature. Therefore, applicant/1st defendant has taken out an application in A.No.1129 of 2019 seeking to reject the plaint.

6. The learned counsel appearing for the applicant/1st defendant submitted that the Plaintiff Trust has no legal right and therefore, the Plaintiff Trust has no cause of action to file a suit and as the Plaintiff Trust is not the owner of the property, a stranger and a third party to the title of the vehicles cannot seek any declaratory relief and the same is legally not maintainable and therefore, they filed the present Application seeking to reject the plaint.



7. The learned counsel appearing for the first respondent/Plaintiff Trust by filing the counter affidavit submitted that the scheduled mentioned properties originally belonged to Dr.M.A.M.Ramaswamy Chettiar and orally gifted the said property to the first respondent/Plaintiff Trust. The applicant/first defendant is not the adoptive son and though the applicant/first defendant claims as an adoptive son, he did not obtain any adoption order legally. Therefore, the question of maintainability of the suit does not arise. Further, the learned counsel submitted that the first respondent/Plaintiff Trust has got cause of action to file a suit and there is no legal impediment to file the suit. The plaintiff claims that they have a perfect legal right to institute and maintain the suit in respect of the subject matter of suit and the Plaintiff Trust has title over the vehicles concerned and is entitled to seek the decree as prayed for and the Suit is not barred for any reason. Further the Suit is not overvalued and is appropriately valued and no ground is available to the applicant/1st defendant for rejection of the plaint. Therefore, the learned counsel submitted that the applicant/1st defendant has not made out any case to reject the plaint under Order VII Rule 11 of CPC.

8. Heard the learned counsel appearing for the parties and perused the materials placed on record.

9. On a reading of the plaint, it is seen that the first



respondent/Plaintiff Trust has got cause of action in the Suit and the same is not barred by any law. All the grounds taken by the applicant/1st defendant regarding the rights of the parties and the validity of the adoption can be decided only after recording evidence and not at this stage.

10. It is a settled legal proposition of law that at the time of deciding the application filed under Order VII Rule 11, this Court has to look into the averments in the plaints and documents annexed with, and need not look into the defence taken by the defendant. Therefore, a careful reading of the plaint itself clearly shows that the plaint discloses cause of action and the applicant/1st defendant has not established any reason to reject the plaint as contemplated under Order VII Rule 11 CPC and accordingly, the Application in A.No.1129 of 2019 is dismissed.

Sd./-P.V.J
17.03.2022

//Certified to be true copy//
Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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