



C.R.P (PD).No.1394 of 2022 and
C.M.P.No.7275 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	23.06.2022
Pronounced on	06.07.2022

CORAM:

THE HON'BLE Ms.JUSTICE **R.N.MANJULA**

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1.Mrs.Poovai
2.Ms.Thirumagal
3.Ms.Perarasi
4.Mr.Rajasekaran
5.Mr.Prakash
6.Suresh Babu
7.Panneerselvam

... Petitioners

Vs.

Ms.Rahima

...

Respondent

PRAYER : Civil Revision Petition is filed under Section 115 of the C.P.C., to set aside the order dated 10.01.2022, passed in I.A.No.53 of 2021 in O.S.No.21 of 2021, on the file of the Additional District Judge, Tindivanam.

For Petitioners : Mr.Muralikumaran for
M/s.MCGAN Law firm

For Respondent : Mr.G.Baskar (caveator)



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ORDER

This civil revision petition has been preferred challenging the order of the learned Additional District Judge, Tindivanam, dated 10.01.2022, made in I.A.No.53 of 2021 in O.S.No.21 of 2021.

2. Heard the learned counsel for the petitioners and the learned counsel for the respondent.

3. The petitioners are the defendants in the suit filed by the respondent / plaintiff in O.S.No.21 of 2021. The plaintiff has filed a suit for the reliefs of permanent injunction, declaring the sale deed executed by the defendants 1 to 3 in favour of the defendants 4 to 7, as null and void and other consequential reliefs. During the pendency of the suit, the revision petitioners / defendants filed an interlocutory application in I.A.No.53 of 2021, to strike off the pleadings of the plaint of the respondent / plaintiff. The said petition was dismissed. Aggrieved over that, the civil revision petitioners filed this revision petition.



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4. The learned counsel for the petitioners submitted that the suit filed by the respondent / plaintiff by claiming herself as the wife of late one Radja itself is frivolous, scandalous and the plaint cannot be maintained on the basis of the pleading so made by the respondent / plaintiff and hence, it is liable to be struck off.

5. The further submission of the learned counsel for the petitioners is that the alleged Will dated 12.07.2019 itself is a concocted document and the conduct of the respondent / plaintiff that she is making false claim of the property, will be evident through the existence of two Wills dated 12.07.2019, with different particulars; the intention of the respondent / plaintiff is nothing but to grab the suit properties from the civil revision petitioners who are the lawful owners.

6. Before advertng into the merits of the submission of the learned counsel for the petitioners, it is worthwhile to extract the provisions of Order 6 Rule 16 of C.P.C., which is relevant to striking out pleadings. The said provision is extracted hereunder:



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“Order 6 Rule 16 of C.P.C. : *Striking out pleadings* – The

Court may at any stage of the proceedings order to be struck out or amended any matter in any pleading,

(a) which may be unnecessary, scandalous, frivolous or vexatious, or

(b) which may tend to prejudice, embarrass or delay the fair trial of the suit, or

(c) which is otherwise an abuse of the process of the Court.”

The above provision empowers the Court to strike off any matter in the pleadings which is unnecessary, scandalous, frivolous and vexatious and because of which, embarrassment, prejudice and delay would occur for a fair trial of the case.

7. In the petition filed by the revision petitioners / defendants, no specific matter or content of the pleadings is highlighted for the purpose of striking off the same in the context stated under Order 6 Rule 16. The revision petitioners prayed to strike off the entire plaint by stating that the allegations made in the plaint are frivolous and scandalous. The first defendant has filed a written statement by stating that the respondent / plaintiff is not the wife of late Radja, but, the first defendant alone is his wife; the respondent / plaintiff



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falsely claims that she is the second wife of late Radja and she can never be the wife of late Radja, since the marriage between the first defendant and Radja was subsisting till his death; the respondent professes Muslim religion and the late Radja is a Hindu; so, there is no possibility for a marriage between the respondent / plaintiff and the late Radja as claimed by the respondent.

8. When the plaintiff files a suit on the basis of certain pleadings and claims a relief, the burden lies on the shoulders of the plaintiff to prove her pleadings. If false claim is made based on the false averments in the plaint, the risk goes with the plaintiff and he /she may be unsuccessful at the conclusion of the suit proceedings. During the narration of the plaint, if any matters are supplemented and which have a negative potential of being scandalous and frivolous and it would affect the fair trial of the proceedings, then it is obligatory on the part of the Court to strike off the same. The scandalous and frivolous statements should be distinguished from false statement made in the pleadings. It might be false for the respondent to claim herself as the wife of late Radja and her claim over the suit property may be false. When the plaintiff narrates her plaint by stating certain events and incidents that cannot be *ipso facto* called as scandalous pleadings and that should be struck off by invoking



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Order 6 Rule 16.

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9. In the course of the trial, if the pleadings are proved to be scandalous and frivolous, the plaintiff who brings the false case would face the consequences. In fact, the respondent / plaintiff admits that the first defendant is the wife of late Radja. However, she claims that due to some misunderstanding, the first wife of late Radja and Radja got separated and thereafter, Radja married the respondent / plaintiff. This fact was denied by the first defendant. So, the matter in issue could be whether the marriage between the first defendant and Radja was subsisting till his death and whether the respondent / plaintiff is a legally wedded wife of late Radja or not. Apart from these fundamental issues, there may be other issues with regard to Title will also arise. The pleadings of respective parties which creates a matter in issue deserve to be dealt at the time of trial.

10. In support of his contention, the learned counsel for the petitioners cited the following decisions:

(i) 1986 (Supp) Supreme Court Cases 315, in the case of Azhar



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Hussain Vs. Rajiv Gandhi.

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(ii) (1977) 4 SCC 467, in the case of T.Arivandandam Vs. T.V.Satyapal and Another.

(iii) (1977) 4 SCC 471, in the case of The State of Karnataka and Another Vs. Shri Ranganatha Reddy and Another.

(iv) (2021) 5 SCC 435 in the case of Krishna Lal chawla and Others Vs. State of Uttar Pradesh and Another.

(i) In the case reported in **1986 (Supp) Supreme Court Cases 315, in the case of Azhar Hussain Vs. Rajiv Gandhi**, involves a case which does not say about the entire facts leading to any cause of action. Since the context of the above case is entirely different from the case in hand, the said case is not applicable to the present situation.

(ii) In the case reported in **(1977) 4 SCC 467, in the case of T.Arivandandam Vs. T.V.Satyapal and Another**, deals with a case which does not have proper pleadings on the face of it.

(iii) Even in the case reported in **(1977) 4 SCC 471, in the case of The State of Karnataka and Another Vs. Shri Ranganatha Reddy and Another**, it is held that whenever arguable legal or factual questions arise in a case, they cannot be summarily dismissed without recording a reasoned order. So when



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arguable issues arise in a case, the respective party should be given with an opportunity to canvass their stand before the Court.

(iv) The case reported in ***(2021) 5 SCC 435 in the case of Krishna Lal chawla and Others Vs. State of Uttar Pradesh and Another***, it is not applicable to the point in issue in this revision and it has to be seen in the context of its own facts.

In other cases cited by the learned counsel for the petitioners, it should be seen in the context of its own facts. It is specifically stated that a plaint should be read as above in order to say whether it makes out meaning and cause of action. It makes out the case on the basis of the cause of action pleaded by the plaintiff.

11. If for any valid reasons, the very pleadings and on the basis of which, the suit itself is not maintainable, then, the plaint will be rejected as not maintainable under Order 7 Rule 11. But, the quality of veracity of the facts pleaded are liable to be proved before the Court during trial. There is a difference between scandalous statement and the statement which lacks in truth. Just because one party considers the pleadings of the other lacking in truth, the pleadings cannot be struck off by invoking Order 6 Rule 16 before



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getting them tested during trial. The learned Trial Judge has rightly dealt the issue and dismissed the petition. I find no reason for interference in the order passed by the learned Trial Judge.

12. Accordingly, this Civil Revision Petition stands dismissed and the order passed by the Additional District Judge, Tindivanam in I.A.No.53 of 2021 in O.S.No.21 of 2021 dated 10.01.2022, is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

Index: Yes/No
Speaking / Non Speaking Order
gsk

06.07.2022

To
The Additional District Judge,
Tindivanam.

R.N.MANJULA, J



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