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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 15TH DAY OF MARCH 2022

THE HON'BLE MR. JUSTICE P.VELMURUGAN

A. No.2536 of 2019

in

C.S. No.111 of 2019

C.S. No.111 of 2019:-

Mr.G.Ganesan,
S/o. Sudalaimani,
No.4/47-1, Mathunayakanpatti Road,
Allampatti,
Virudhunagar – 626 001.

... Plaintiff

Vs.

1.Mr.S.Sakthivel,
S/o.M.Samuthiravelu,
No.H-10, Egmore Police Quarters,
Near Ganesh Travels,
Egmore, Chennai – 600 008.

2.Mr.S.Chandran,
S/o.Sundararajan,
No.6/143, Malligai Street,
NGO Colony, East,
Sivagnapuram Panchayath,
Virudhunagar – 626 001.

3.Mrs. C.Subbulakshmi
W/o.S.Chandran,
No.6/143, Malligai Street,
NGO Colony, East,
Sivagnapuram Panchayath,
Virudhunagar – 626 001.



4. Great Lakes Multi-State
Co-operative Housing Society Limited
Represented by its Chairman namely Mr.S.Sakthivel,
No.76/190, South Car Street,
Srivilliputhur – 626 125.
Virudhunagar District ... Defendants

A. No.2536 of 2019:-

Great Lakes Multi-State
Co-operative Housing Society Limited
Represented by its Chairman namely Mr.S.Sakthivel,
No.76/190, South Car Street,
Srivilliputhur – 626 125.
Virudhunagar District ... Applicant

Vs.

1. Mr.G.Ganesan,
S/o. Sudalaimani,
No.4/47-1, Mathunayakanpatti Road,
Allampatti,
Virudhunagar – 626 001.

2. Mr.S.Sakthivel,
S/o.M.Samuthiravelu,
No.H-10, Egmore Police Quarters,
Near Ganesh Travels,
Egmore, Chennai – 600 008.

3. Mr.S.Chandran,
S/o.Sundararajan,
No.6/143, Malligai Street,
NGO Colony, East,
Sivagnapuram Panchayath,
Virudhunagar – 626 001.

4. Mrs. C.Subbulakshmi
W/o.S.Chandran,
No.6/143, Malligai Street,
NGO Colony, East,
Sivagnapuram Panchayath,
Virudhunagar – 626 001.

... Respondent



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Application praying that this Hon'ble Court be pleased to Reject the
plaint and dismiss the suit.

This Application coming on this day before this court for hearing, the
court made the following order:-

This application has been filed by the applicant/fourth
defendant to reject the plaint.

2. The first respondent/plaintiff has filed the Suit for recovery of
money. Earlier, he has filed an application seeking leave to file the Suit and
the same has also been granted by this Court.

3. The fourth defendant has filed this application to reject the plaint
on the ground that there is no territorial jurisdiction for the plaintiff to file
the Suit before this Court, since all the defendants are residing outside the
jurisdiction of this Court. Further, the cause of action has also arisen outside
the jurisdiction of this Court.

4. Learned counsel for the applicant submitted that neither the cause
of action has arisen within the territorial jurisdiction of this Court, nor all
the defendants are residing within the jurisdiction of this court. Even in the
cause title, the plaintiff referred the residence of the second, third and



fourth defendants at Virudhunagar District. Therefore, he prayed to reject the plaint. Further, he has stated in the affidavit that before filing the suit, statutory notice has not been served and there is no dispute of civil nature found in the case to file the Suit.

5. There is no representation on the side of the first respondent/plaintiff.

6. It is well settled proposition of law that, at the time of deciding the application under Order VII Rule 11C.P.C., to reject the plaint, the Court has to see only the averments made in the plaint and the documents annexed therewith and not the defence taken by the defendants. A careful reading of the averments in paras 7 and 8 of the plaint disclose the cause of action. Paras 7 and 8 of the plaint clearly show that the first and fourth defendants are having the Bank accounts in different Banks in Chennai and Srivilliputhur. The first defendant is using Airtel mobile phone bearing No.96775 00000 and his residential address is also at No.H10, Egmore, Police Quarters, Near Ganesh Travels, Egmore, Chennai-600 008. The Banks are also situated at Egmore, Chennai. Further, he specifically pleaded in the plaint that the plaintiff had transferred a sum of Rs.1,05,64,100/- [One Crore, Five Lakhs, Sixty Four Thousand and Hundred only] into the



Bank accounts of the defendants 1 and 4 on various dates from 02.02.2016 up to September 2016. The defendants 1 and 4 have also withdrawn a sum of Rs.1,05,64,100/- [Rupees One Crore, Five Lakhs, Sixty Four Thousand and Hundred only] from the respective Banks. Particulars of the deposits are also given in para 8 of the plaint. Therefore, part of the cause of action has arisen within the territorial jurisdiction of this Court and also on a reading of the cause title in the plaint, the second defendant's residence is shown as “No.H-10, Egmore Police Quarters, Near Ganesh Travels, Egmore, Chennai – 600 008. Therefore, one of the defendants' residence is also at Chennai and the same is also within the territorial jurisdiction of this Court. Therefore, the contention raised by the learned counsel for the applicant that no part of cause of action has arisen within the jurisdiction of this Court, is not acceptable. Further, even assuming that this Court has no territorial jurisdiction, at the best, the plaint has to be returned to the plaintiff to re-present the plaint before proper Court, which has got the territorial jurisdiction. Order VII Rule 10 C.P.C., is very clear that on what circumstances, the plaint can be returned and Order VII Rule 10 (A) and (B) C.P.C., clearly state about the procedures to be adopted in case of return of the plaint. However, Order VII Rule 11 C.P.C., does not say that for want of jurisdiction, the plaint has to be rejected. Therefore, this Court,



cause of action lies within the jurisdiction of this Court and residence of one of the defendants also lie within the jurisdiction of this Court.

Therefore, this application is liable to be dismissed. Accordingly, the Application is dismissed as devoid of merits.

7. All the defendants are directed to file their written statement on or before 31st March 2022, failing which, Registry is directed to list the matter before the concerned Master under the caption “undefended board”.

Sd./-PVJ.

15/03/2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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EVK 22/03/2022