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C.R.P.No.3438 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.R.P.No.3438 of 2022

and

C.M.P.No.18245 of 2022

C.Chidambaram

... Petitioner

Vs.

1. Arulmighu Karaneeswarar Thirukoil
Rep by its Executive Officer,
Saidapet, Chennai - 15.

2. The Tahsildar,
Mambalam - Guindy Taluk,
K.K.Nagar, Chennai - 78.

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, pleaded to set aside the order of dismissal of rejection of the plaint, dated 20.12.2019 passed in I.A.No.2 of 2019 in O.S.No.2623 of 2019 on the file of XV Addl., City Civil Court, Chennai and allow the same filed by the Petitioner.

For Petitioner : M/s.P.Mathivanan

For Respondents 1 & 2 : M/s.Dr.S.Suriya
Additional Government Pleader



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ORDER

This Civil Revision Petition has been filed challenging the order passed by the Court below dismissing the application for rejection of the plaint filed by the revision petitioner.

2. The 1st respondent temple filed a suit against the petitioner and 2nd respondent seeking declaration that the sale certificate dated 04.02.1981 issued in favour of petitioner herein was null and void and also for a declaration that Patta dated 28.09.1989 issued by 2nd respondent in favour of the petitioner was null and void. The 1st respondent also sought for relief of recovery of possession. The petitioner herein who was arrayed as 1st defendant in the suit after entering appearance in the suit filed a petition to reject the plaint.

3. According to the petitioner, he is a Court auction purchaser of the suit property and the trustees of the temple very well knew about the earlier proceedings and the sale in favour of the revision petitioner and hence the suit filed by the 1st respondent temple nearly after 38 years is hopelessly barred by limitation. It is settled law while considering the petition for rejection of plaint, the Court is only concerned with the averments found in the plaint and plaint documents. In other words it not open to it look into the defense raised by the defendant at the time of



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considering the petition filed under Order 7 Rule 11 of C.P.C.

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4. A perusal of the averments found in the plaint would suggest that the 1st respondent temple was not a party to the earlier proceedings in which sale certificate was issued in favour of the revision petitioner. It was averred in the plaint that the 1st respondent acquired knowledge about the sale certificate issued in favour of the petitioner only in the year 2017 and thereafter the suit was filed by the 1st respondent. The actual date on which 1st respondent acquired knowledge about the sale certificate is a disputed question of fact which cannot be conveniently gone into in a petition for rejection of plaint. Therefore the Court below rightly rejected the petition filed by the revision petitioner seeking rejection of the plaint by holding that the above points raised by the revision petitioner cannot be considered at the stage of petition to reject the plaint and the same has to be gone into only in a full fledged trial. I do not find any infirmity in the order passed by the Court below. Consequently the Civil Revision Petition is dismissed. No costs. C.M.P.No.18245 of 2022 is closed.

28.10.2022

Index: Yes/ No

Speaking Order / Non-Speaking Order

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S.SOUNTHAR, J.

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To

1. Arulmighu Karaneeswarar Thirukoil
Rep by its Executive Officer,
Saidapet, Chennai - 15.
2. The Tahsildar,
Mambalam - Guindy Taluk,
K.K.Nagar, Chennai - 78.
3. The XV Additional City Civil Court,
Chennai.

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