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A.No.1799 of 2022

Reserved on :	29.04.2022
Pronounced on :	20.07.2022

A.No.1799 of 2022 in
C.S.D39450 of 2022

P.VELMURUGAN, J.

This application has been filed seeking leave of this court to institute a suit in respect of items No.I to VI, VIII, XIII to XV of the suit schedule property which are outside the territorial jurisdiction of this court.

2. It is the case of the applicant that the applicant has filed the above suit to specifically perform the family arrangements dated 10.08.2018 including the oral family arrangement dated 09.09.2002 arrived at between the applicant/plaintiff and respondents/defendants in respect of the suit schedule properties and permanent injunction restraining the respondents/defendants in any manner in alienating or dealing with the suit properties, morefully described in the schedule hereunder. The suit schedule properties contain the properties that are referred in the Memorandum of Family Arrangement in the year 2002 and 2018 which includes properties that are outside the jurisdiction of this court viz., item No.I to VI, VIII, XIII



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to XV of the suit schedule. When all the respondents/defendants are residing within the jurisdiction of this court, leave is not required, however by way of abundant caution leave is sought for herein.

3. In the counter, the first respondent has denied the allegation that the major part of cause of action arose in chennai and stated that admittedly, Item Nos.I to VI, VIII, XIII to XV of the suit schedule are outside the jurisdiction of this court. It is also stated that there was no oral family arrangement dated 09.09.2002 or 10.08.2018 as falsely alleged by the applicant/plaintiff and no such family arrangement was ever made between the applicant and respondents and the applicant is not entitled to any remedy on the alleged non-est family arrangement as pleaded. The first respondent has also stated that neither the applicant nor the second respondent has any right over the suit schedule properties and the first respondent alone is entitled to deal with the entire estate in lieu of the provisions of Hindu Succession Act. It is also stated that the above suit is filed to declare the settlement deed dated 23.07.2021 bearing Document No.2058 of 2021 executed by the first respondent in favour of the second respondent on the file of the Sub Registrar Office, Marakkanam as null and void and



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permanent injunction restraining the respondents in any manner alienating or dealing with the suit properties which are outside the jurisdiction of this court. It is also stated that the relief claimed in the above suit is for the title of the suit schedule properties and is suit for land as provided under Clause 12 of Letters Patent Act and this court lacks jurisdiction to entertain the above vexatious suit. The suit is one for land which admittedly outside the territorial jurisdiction of this court and no jurisdiction is available under clause 12 of the Letters Patent. It is also stated that the above suit does not fall within the scope and ambit of clause 12 of letters patent and the applicant is not entitled to seek leave under Order III Rule I of Original Side Rules. It is also stated that the applicant had filed the above vexatious suit erroneously invoking the jurisdiction of this court.

4. Learned counsel for the applicant would submit that the relief sought for in the suit is not suit for land and the respondents/defendants are residing within the jurisdiction of this Court. Since some of the properties are situated outside the jurisdiction of this Court, the applicant has filed this application for abundant cause. In support of his contention, learned counsel for the applicant has relied upon the following decisions:



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(a) A decision of the Division Bench of this court in the case of

S.V.Subramaniam vs. Cypress Semiconductor Technology India Private Limited reported in ***2008 (1) CTC 471***; and

(b) A decision of the Division Bench of this Court in the case of

A.C.Subba Reddy vs. Jawahar International Trading corporation Company reported in ***2008 (4) CTC 160***

5. Learned counsel for the first respondent would submit that the relief sought for in the suit is affecting the rights of the properties and parties. When the properties are outside the jurisdiction of this court and the suit is for land, this Court has no jurisdiction. Therefore, leave cannot be granted and hence, this application is liable to be dismissed. In support of his contention, the learned counsel for the first respondent has relied upon the following decisions:

(a) A Single Bench Decision of this court in the case of

M.Banupriya vs. M.Lakshmi and others reported in ***2013 (4) CTC 174***;

(b) A Division Bench Decision of this court in the case of ***Adcon***

Electronics Pvt., Ltd., vs. Daulat and another reported in ***(2001) 7 SCC 698***; and



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(c) A Division Bench Decision of this court in the case of

K.Paranthaman vs. C.Padmanabhan and others reported in **2019 (3) CTC 228.**

6. Heard the learned counsel and perused the materials available on record.

7. Though both the respondents are residing within the jurisdiction of this court, excepting for six items out of total sixteen items, all other items are situated outside the jurisdiction of this court and the relief sought for by the applicant falls under the suit for land. Therefore if the suit is for land and the properties are situate outside the jurisdiction of this court, as per Clause 12 of Letters Patent, this court has no jurisdiction to entertain the suit. Section 16 to 22 of CPC would not applicable to the original side jurisdiction and letters Patent Act alone would applicable but not CPC. If the relief sought for in the plaint is not suit for land, this Court can entertain the suit, though some of the properties are outside th e jurisdiction of this court.



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8. The citation referred to by the counsel for the applicant is not applicable to the present case on hand. As per the Division Bench decision of this Court reported in **2019 (3) CTC 228** relied upon by the learned counsel for the first respondent, the relief sought for in the application falls under the suit for land. Therefore, this application is liable to be dismissed as it is devoid of merits. Accordingly, this application is dismissed. Registry is directed to return the plaint to the applicant to enable him to present the suit before the competent court which has got the territorial jurisdiction.

20.07.2022

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