



C.R.P.(PD).No.1935 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2022

C O R A M

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD).No.1935 of 2021

and

C.M.P.No.15016 of 2021

1.Nalina Ammal

2.Kalyankumar

...Defendants 1 & 2/Revision Petitioners

-V-

1.A.Senthilkumar ... Plaintiff/1st Respondent

2.The Thasildar,
Vikravandi.

3.The District Collector,
Villupuram District,
Villupuram.

...Defendants 3 & 4 /Respondent 2 & 3



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Prayer: Petition filed under Article 227 of the Constitution of India, to strike off the plaint is O.S.No.310 of 2021 on the file of the learned 1st Additional Subordinate Judge, Villupuram, and pass such other orders as this Hon'ble Court may deem fit in the circumstances of the case.

For Petitioner : Mr.N.Suresh
For Respondents : Mr.K.Elango [R.1]
Mr.D.Gopal [R2 & R3]

ORDER

This C.R.P.No.1935 of 2021 has been filed to strike off the plaint filed by the 1st respondent in O.S.No.310 of 2021 on the file of the I Additional Civil Judge (Senior Division) Villupuram. The plaint is sought to be struck off on the ground that it is an abuse of process of Court, re-litigation and a fraud played on Court. In order to appreciate the contentions of the revision petitioners, it is necessary to briefly narrate the events that had taken place prior to the filing of this suit which is filed for a declaration of title and



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permanent injunction and a mandatory injunction to respondents 3 and 4 to mutate the revenue records in the name of the plaintiff.

2. In respect of the property comprised in Survey No.187/4 (now 313/8) measuring an extent of 0.05 cents together with a well, 7.5 H.P. Electric Motor pump sets with E.B. Service connection no.1 at Mundiampakkan Village Vikiravandi, Villupuram, earlier a suit O.S.No.230 of 1991 had been filed by the revision petitioners herein against Venkatesan, Annamalai, Lakshmi and Ashok Raj before the District Munsif Court, Villupuram for a declaration of their title to the suit schedule property and for a permanent injunction.

3. The property in question is a very same property which is the subject matter of the present suit. The 2nd item of property therein is the suit property in the instant



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suit. The suit was partly decreed and the relief with reference to the 2nd item of suit property was rejected. Challenging the said judgement and decree the revision petitioners had filed A.S.No.307 of 1994 on the file of the District Court, Villupuram. Originally the said suit was filed on the file of the Sub Court, Villipuram in A.S.No.129 of 1993. The appeal was allowed and the suit O.S.No.230 of 1991 came to be decreed in entirety.

4. This judgement and decree was taken up on appeal by the 2nd and 3rd defendants herein namely Annamalai and Lakshmi in S.A.No.1107 of 1995 before this Court. By judgement and decree dated 23.04.2007 the appeal was dismissed and the SLP preferred by Lakshmi, the 3rd defendant was dismissed by an order dated 23.04.2007. By reasons of this Judgment the revision petitioner's title to the property has been declared. While so, it appears that



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after the dismissal of the SLP by the Hon'ble Supreme Court, the 3rd defendant Lakshmi Ammal has executed a settlement deed in respect of the suit schedule property in favour of her son, the 1st respondent herein.

5. After the execution of the settlement deed in his favour the 1st defendant has come forward with the present plaint seeking to have his title declared to the suit property and for an injunction and mandatory injunction. The plaint makes no reference to the earlier suit O.S.No.230 of 1991 or the confirmation of the Judgment and Decree therein right up to the Hon'ble Supreme Court. On the contrary, the plaint refers to a partition suit O.S.No.159 of 2015 wherein Lakshmi Ammal had filed a suit for partition against the revision petitioners herein on the file of the Principal District Munsif Court, Villupuram. This suit came to be dismissed for default on 16.04.2017.



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6. Thereafter, it is the contention of the 1st respondent that Lakshmi Ammal had filed an application to restore the suit by filing an I.A.No.252 of 2020. He would also contend that in the 1st week of November 2020, the revision petitioners herein had relinquished their claim to the suit property in favour of Lakshmi Ammal as a result of which Lakshmi Ammal became an absolute owner of the suit property. As a preventive action this suit is being filed so as to prevent the revision petitioners herein from giving any trouble to the enjoyment of the suit property by the 1st respondent herein. The revision petitioners on receiving summons in this suit has come forward with this petition.

7. Heard the learned counsels.

8. The records would show that a suit O.S.No.230 of



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1991 has been filed as early as in the year 1991 by the revision petitioners herein for declaring their title to the suit property and for an injunction. Along with the property subject matter of the present suit another item of property was described as the 1st item of the property and the suit property was described as the 2nd item of the property. The suit was initially decreed only with reference to the 1st item of the property and dismissed with reference to the 2nd item of the property.

9. The revision petitioners had challenged the said judgment and decree in A.S.No.307 of 1994 and the learned Sub Judge, Villupuram by a judgment and decree dated 17.04.1995 has allowed the appeal. As a result of which the revision petitioners' right to both the properties got declared and the defendants were restrained by an order of injunction from interfering with the peaceful



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possession and enjoyment of the suit property by the plaintiffs. The defendants in the said suit are the parents of the 1st respondent herein. This suit has been gone against them and the judgment and decree has been confirmed right up to the Hon'ble Supreme Court.

10. While so, the 1st respondent has come forward with the present suit which is clearly an abuse of the process of Court, re-litigation, and fraud on Court. Therefore, the plaint is liable to be struck off. This Civil Revision Petition is therefore allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes/No
Internet : Yes/No
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To

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The 1st Additional Subordinate Judge,
Villupuram



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P.T. ASHA, J,
shr

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