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C.R.P(PD).No.2475 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P.(PD).No.2475 of 2022
and C.M.P.No.12775 of 2022

P.Mahadevan

... Petitioner

..Vs..

1.Rajkumar Andrew

2.V.Gurudevan

3.P.Gopal

4.The Deputy Registrar of Co-operative Society (Housing)

No.17, Ramanathan Street,

T.Nagar, Chennai 17.

5.The Liquidator/Co-operative Sub Registrar,

No.17, Ramanathan Street,

T.Nagar, Chennai 17.

6.The Sub Registrar, Pallavaram,

7th Main Road,

New Colony, Chrompet,

Chennai 44.

...Respondents

Prayer:- Civil Revision Petition is filed under Section 115 of CPC, against the order of the learned Additional District Munsif, Alandur dated 18.04.2022 made in I.A.No.211 of 2021 in O.S.No.494 of 2017.



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For Petitioner : Mr.S.P.Sudalaiyandi

ORDER

This Civil Revision Petition has been preferred challenging the order of the learned Additional District Munsif, Alandur dated 18.04.2022 made in I.A.No.211 of 2021 in O.S.No.494 of 2017.

2.The revision petitioner is the 2nd defendant. The first respondent/plaintiff has filed the said suit for declaration that the sale deed dated 11.07.2017 and Power of Attorney dated 11.10.2017 as null and void and also for permanent injunction. After filing the written statement, the 2nd defendant has filed an interlocutory application under Order VII Rule 11 CPC to reject the plaint and the said application was dismissed. Aggrieved over that, the petitioner has preferred this revision petition.

3.The learned counsel for the petitioner submitted that the suit is barred under Section 156 of the Tamil Nadu Co-operative Societies Act



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and in view of the order dated 31.10.2019 passed in W.P.No.12596 of 2019, certain directions to the Government Officials were issued; in compliance of the said order, no report has been filed so far and hence, the suit itself is a prematured one; despite, the Government parties have been added as defendants, the plaintiff has not given mandatory notice under Section 80 CPC and hence, the suit itself is not maintainable; the plaintiff had suppressed the earlier transaction and hence, the plaint should be rejected on that ground as well.

4.The suit has been filed on the basis of the cause action stated therein. The first respondent/plaintiff derived the cause of action only from the sale which has been effected on 11.07.2017 in favour of the 1st defendant. The plaint has to be filed only by averring the facts; if on examination a prima facie case is made out the plaint will be taken on file. The written statement filed by the petitioner/2nd defendant would show that he has some contentious points on which the trial Court has framed issues. When there arose a necessity to settle the issues in the case



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and thereafter to proceed with the trial, it cannot be claimed that the suit itself should be rejected at the threshold. In fact, in the order passed by this Court, subsequent to the suit in W.P.No.12596 of 2019 dated 31.10.2019, it is observed as under:-

21.Whereas, the petitioner has already restored to Civil Court for declaring the sale deed executed in favour of the 6th respondent as null and void. The pendency of the civil suit shall not stand in the way of the 2nd respondent to consider the representation the petitioner dated 29.10.2017 primarily regarding the cancellation of the petitioner allotment order by the 5th respondent when he was not the competent person to cancel.

22.Hence, the second respondent is hereby directed to appoint appropriate Officer to look into the grievance of the petitioner stated in his representation dated 29.10.2017 in proper perspective. Particularly, the enquiry and action shall be focused on the point, 'whether the allotment order dated 19.11.1993 in the name of the petitioner which was cancelled for breach of allotment conditions is valid or not'.



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5.As per the above directions, irrespective of the pendency of the suit, the authorities concerned should consider the representation and pass orders. The order in the Writ Petition is not a bar for the Government Authorities to consider the application filed by the first respondent/plaintiff therein. The plaintiff who has filed the suit, has also given application before the Revenue Authorities to redress his grievance.

6.If at all, the petitioner/second defendant wishes to canvass before the Court that any facts or proceedings are suppressed by the plaintiff, that can also be established at the time of trial. Normally, when the suits are filed against the Government defendants, the mandatory notice under Section 80 CPC will be issued. But, in the absence of such notice, the petition will be filed to dispense the notice under Section 80 CPC and again that cannot be the reason for rejecting the plaint. Even if any grievance is caused due to non service of notice under Section 80 CPC, that has to be told by the Government and not by the petitioner/2nd defendant, who is the private defendant. Hence, I find no ground for

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interference.

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7.In view of the above, this Civil Revision Petition is dismissed and the order of the learned Additional District Munsif, Alandur dated 18.04.2022 made in I.A.No.211 of 2021 in O.S.No.494 of 2017, is hereby confirmed. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

05.08.2022

vkf

Index:Yes No

Speaking Order:Yes/No

To

1.The Additional District Munsif, Alandur.

2.The Deputy Registrar of Co-operative Society (Housing)
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VR Section, Madras High Court, Chennai.



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R.N.MANJULA,J.

Vkr

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