



CRP.No.3163 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.3163 of 2022
and
CMP.No.16892 of 2022

M.Yasodaran

... Petitioner

Vs.

1.V.Nalini
2.B.Shakila
3.H.Pavalavani
4.S.Daisy

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to strike down the plaint in O.S.No.3321 of 2019 on the file of the I Additional City Civil Court, Madras, by allowing this Civil Revision Petition and to grant such other relief or other relief.

For Petitioner : Mr.A.M.Krishnamoorthy



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ORDER

This Civil Revision Petition is filed seeking to strike out the
plaint in O.S.No.3321 of 2019.

2. The respondents 1 to 4 herein filed a suit for recovery of
possession against the petitioner in O.S.No.3321 of 2019.

3. The perusal of the plaint averments would suggest that the
plaintiffs are claiming title of the suit properties under the settlement
deed allegedly executed by their mother namely Thulasi dated
26.06.2013. It was also stated that the fact of settlement was very well
known to the petitioner/defendant and he failed to hand over the vacant
possession inspite of request made by the respondents/plaintiffs and
consequently, they were constrained to file a suit for recovery of
possession.



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4. The learned counsel for the petitioner submitted that he has filed this revision to strike out the plaint on the ground that, if the averments contained in the plaint are taken into consideration as a whole, it does not disclose any cause of action.

5. The learned counsel for the petitioner further submitted that he filed a suit for injunction in respect of very same property against the respondents. It was also submitted by the learned counsel for the petitioner that the respondents are trying to disturb the possession of the petitioner. Therefore, the plaint is to be struck off.

6. If the averments contained in the plaint are taken into consideration as a whole, the respondents/plaintiffs claim title under settlement deed executed by their mother. For recovery of possession based on the title, it is for the respondents to prove their title. Question on the title of the respondents, their entitlement for recovery of



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possession and validity of the settlement deed etc., all are matters for trial and the same cannot be decided by this Court. However, the petitioner has conveniently filed this revision petition under Article 227 of the Constitution of India. Therefore, the petitioner has not made out any case to strike out the plaint.

7. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes / No
Internet : Yes / No
dna



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To

The I Additional City Civil Court, Madras.



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