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A.No.4729 of 2021
in
C.S.No.263 of 2021
and
O.A.No.526 of 2021

P.VELMURUGAN.,J

This application has been filed by the applicant/first defendant to reject the plaint.

2. The respondent/plaintiff has filed the Suit for specific performance and also for permanent injunction restraining the first defendant, their men, agents, servants, or any other person claiming through or under them, or acting for and on their behalf from, in any manner, whatsoever, dealing with, alienating, encumbering or taking possession of the suit property. But actually, it is a suit for land.

3. As per the decision of the Division Bench of this Court, this Court has no jurisdiction to entertain the Suit and also the respondent/plaintiff has also not obtained any leave to file the present Suit. However, plaint was taken on file without leave of this Court as well as based on the various decisions of the Hon'ble Supreme Court.



4. Learned counsel for the applicant submitted that the respondent has filed the Suit for specific performance, coupled with permanent injunction. But actually, it is a Suit for land. Therefore, this Court has no jurisdiction. He has also placed reliance upon the decision of the Division Bench of this Court reported in **2019 (3) CTC Page 228 [K.Paranthaman Vs. C.Padmanabhan and others]** and also in support of his contentions, he referred to para 42 of the said judgment which reads as follows:

42. The Latest Division Bench judgment of this Court in the case of M/s.Harsha Estate & Others Vs. Dr.P.Kalyana Chakravarthy and others reported in 2018-3 L.W.900, has lucidly analysed the principles of law to decide whether a suit is a suit for land or not and the principles of law are as follows:

“(i) In a suit the reliefs claimed, if granted, would directly affect title to or possession of the land it will be “suit for land”.

(ii) If the object of the suit is something different, but involves the consideration of the question of title to land indirectly, it will also be “suit for land”.



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(iii) *A suit where the claim is for recovery of possession or control of land, it will be “suit for land”.*

(iv) *In a suit where determination of any right or interest over an immovable property is involved, it will be “suit for land”.*

(v) *A suit for bare injunction restraining the defendant from interfering with the possession and enjoyment of the property by the plaintiff, will be “suit for land”.*

(vi) *In a suit for bare injunction where the plaintiff seeks to restrain the defendant from dealing with the suit property by creating a charge or alienating or encumbering the property, will also fall within the ambit of a “suit for land”. This Court in M/s.Raja Holdings, Financiers and Merchants, Particular Firm represented by its Partner Lalitha Raja-in O.S.A.No.2/2018, dated 10.07.2018 has considered this issue in detail.*



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(vi)(a) In a suit for specific performance of an agreement of sale wherein the relief of delivery of possession of the suit property has been specifically claimed, it will be “suit for land”.

(vi)(b) In a suit specific performance where the suit is only for enforcement of the agreement simpliciter without seeking for any other relief, the same will also fall within the ambit of “suit for land” since the relief of possession is inherent in the relief of specific performance.

(vi)(c) In a suit for specific performance, where the suit is only for enforcement of the agreement simpliciter and the plaintiff specifically claims to be in possession of the suit property and there is no denial of the said fact by the defendant, the said suit will not come within the ambit of “suit for land”.

(vi)(d) In a suit for specific performance where the plaintiff apart from seeking to enforce the agreement also seeks a relief of injunction against the defendant, not to interfere with his possession and



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*enjoyment or not to create any charge or encumbrance
or not to alienate the suit property, such suits will also
come within the ambit of “suit for land”.*

5. Though the matter has been adjourned several times for filing counter and disposal, the learned counsel for the respondent seeks time to prosecute the case even today. Though he seeks time to file the counter, this Court is not inclined to grant time and inclined to pass orders.

6. It is well settled proposition of law that at the time of deciding the application under Order 7 Rule 11 C.P.C., the Court has to see the averments in the plaint and not the defence taken by the defendant. On a careful reading of the plaint, it is found that the respondent/plaintiff has filed the Suit for specific performance and also sought for the relief of permanent injunction. Therefore, as per the above decision of the Hon'ble Division Bench of this Court, it is a suit for land. It is well settled proposition of law that the Court cannot reject the plaint on the ground of want of jurisdiction. This Court finds that this Court has no jurisdiction to entertain the Suit. Before taking on file, the Court has to return the plaint to the parties to enable them to re-present the Suit before the competent Court, which has got jurisdiction. If the plaint had already been



taken on file, the Court can send the plaint to the Court, which has got territorial jurisdiction and direct the party to appear before the concerned Court on a particular date and it cannot be rejected at the threshold. The only ground taken by the applicant herein/first defendant is that it is a suit for land and the property lies outside the jurisdiction of this Court and therefore, this Court lacks territorial jurisdiction and on that ground, the plaint has to be rejected. For want of territorial jurisdiction, the plaint cannot be rejected, but it can be returned either to the party to present the same before the Competent court or send it to the Court which has got the jurisdiction.

7. Since this Court has already taken the Suit on file as C.S.No.263 of 2021, the Registry is directed to send the plaint to the District Court, Thiruvallur which has got the territorial jurisdiction, within a week. The plaintiffs are directed to appear before the District Court, Thiruvallur on 04.04.2022. The District Court, Thiruvallur is directed to take the Suit on file and list the Suit on 04.04.2022.

8. With the above directions, the application is disposed of.

17.03.2022

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Note: Issue Order Copy on 22.03.2022



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