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C.R.P.No.3736 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.3736 of 2022
and
C.M.P.No.19689 of 2022

J.Manjula

... Petitioner

Vs.

1.J.Ragavan

2.J.Vasudevan

3.J.Manohar

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 10.10.2022 passed in I.A.No.3 of 2022 in O.S.No.2016 of 2019 on the file of Hon'ble XIV Assistant Judge, City Civil Court, Chennai.

For Petitioner : M/s.J.Keerthana

For Respondents : Mr.B.K.Singh



ORDER

The Civil Revision Petition filed for challenging the fair and decreetal order dated 10.10.2022 passed in I.A.No.3 of 2022 in O.S.No.16 of 2009.

2. The revision petitioner is the defendant in the suit, instituted by the respondent for declaration and permanent injunction. The suit was instituted mainly on the ground that the revision petitioner obtained an *ex-parte* decree in O.S.No.4503 of 2011 dated 19.12.2011 without impleading the respondent/ plaintiff in the said suit. The *ex-parte* decree dated 19.12.2011 was obtained behind the back of the respondent/ plaintiff and thus, the respondents have instituted a fresh suit in O.S.No.2016 of 2019.

3. The learned counsel for the revision petitioner mainly contended that there is no cause of action and more so, the suit is hit by the limitation. A perusal of the plaint in O.S.No.2016 of 2019 reveals that the cause of action set out in the plaint states about several events including the *ex-parte* decree obtained by the revision petitioner against the respondent/ plaintiff. When the cause of action reveals the complex facts and circumstances



including an *ex-parte* decree obtained behind the back of the plaintiff, the issues are to be adjudicated with reference to the documents and evidences on record.

4. Cause of action cannot be independently seen in a plaint. The plaint, as a whole, is to be considered while deciding the Interlocutory Application filed under Order 7 Rule 11 for rejection of plaint.

5. Thus, this Court is of an opinion that part consideration would be improper and the plaint, as a whole, is to be considered with reference to the cause of action set out in the plaint for the purpose of considering the application filed for rejection of plaint.

6. In the present case, the plaint reveals that the plaintiff purchased the property originally through a registered document and the plaint further reveals other facts and circumstances and specifically about the *ex-parte* decree obtained by the revision petitioner herein without impleading the plaintiff as a party. Their contention is that they are the necessary parties and the *ex-parte* decree was obtained behind their back.



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7. These facts requires an elaborate adjudication with reference to the documents and evidences. The trial Court, considering the facts and circumstances, formed an opinion that the cause of action is a bundle of facts, which requires to be stated except in certain cases, where the pleadings are relied or with regard to misappropriation, fraud, willful default, undue influence or of the same nature. So long, the plaint discloses some cause of action, which requires determination by the Court, then the suit is to be tried.

8. In the present case, the plaint do disclose a cause of action, which reveals several facts and circumstances. Thus, the trial Court arrived a conclusion that the plaint cannot be rejected under Order 7 Rule 11 and accordingly, dismissed the Interlocutory Application filed by the revision petitioner.

9. The trial Court considered the scope of Order 7 Rule 11 in consonance with the principles and thus, there is no perversity or infirmity.



10. The parties to the suit are expected to proceed with the trial without seeking unnecessary adjournments on flimsy ground. Idea of prolongation of the suit, at no circumstances, be encouraged by the Courts. Frivolous Interlocutory Application, if filed, to be dealt with sternly and exemplary or maximum costs is to be imposed. Thus, the Courts are expected to be vigilant while dealing with such frivolous Interlocutory Application filed by the litigants in order to prolong and protract the suit for personal gains.

11. Once the trial is commenced, then long adjournments are to be avoided. Adjournments, if sought, are to be granted on genuine grounds which must be recorded. The Courts are expected to take efforts to ensure that the cases filed are disposed of within a reasonable period of time. More so, after commencement of trial, there shall not be any long adjournments and thus, the parties to the suit are directed to co-operate for early disposal of the suit by availing opportunities to be provided by following procedures as contemplated under law.



12. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes
Speaking order



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S.M.SUBRAMANIAM, J.

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