



CRP. No.4198 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

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k.Ravi

...Petitioner.

Vs.

R.Kailash Chand Sharma

...Respondent.

PRAYER: This Civil Revision Petition is filed under Article 227 of Constitution of India praying to set aside the order dated 21.07.2017 passed in I.A No.1265 of 2016 in O.S No.213 of 2015 on the file of the Principal District Munsif Court, Alandur.

For Petitioner	: Mr.N.Manokaran
For Respondent	: Mr.S.Gunaseelan

ORDER

Challenging the order passed by the Principal District Munsif, Alandur, in I.A No.1265 of 2016 in O.S No. 213 of 2015, the petitioner/second defendant preferred this revision Civil Revision Petition.



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2. Originally O.S No. 213 of 2015 was filed by the respondent/plaintiff for the relief of permanent injunction and other consequential relief against the defendant and the defendant also contested the suit by filing a written statement. Thereafter, second defendant filed an application under Order 7 Rule 11 (a) of CPC, to reject the plaint which was filed by the respondent for the relief of permanent injunction and other consequential relief. The contention of the petitioner in the application is that in order to make out cause of action the plaintiff herein colluded with first defendant fabricated a rental agreement dated 01.03.2014 portraying as if he is a tenant under the first defendant in the suit property from 01.03.2014 onwards. On perusal of stamp papers it reveals that stamp vendor written serial No. 38981/dt/01.03.2013, and the treasury put the seal on stamp paper was that September 2013. Therefore it reveals that rental agreement is false, fabricated, with a view to create cause of action in order to get the remedy by back door for the reason that they were not able to get order in O.S No. 86 of 2014 before the Sub Court, Alandur, filed by alleged lessor/first defendant. Hence there is no cause of action to file the suit, it is clear abuse of process of law hence prayed to reject the plaint. The plaintiff/respondent submitted before the Trial Court that in order to drag



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on the proceedings second defendant filed vexatious application. Besides, lease agreement also executed properly by following all the rules hence prayed to dismiss the application.

3. On considering the submissions on either side, the Trial Court held that petition to reject the plaint is pre mature one, if at all any document claimed by the second defendant, it has to be proved by examining the witness. Accordingly the said application was dismissed

4. Challenging the said application second defendant preferred this Civil Revision petition.

5. The learned counsel for the petitioner argued that alleged lease agreement was created by colluded with the first defendant on 01.03.2014 in order to get order from the Court as first defendant failed to get injunction in earlier suit OS No. 86 of 2014 which is clear abuse of process of law. Hence he prayed to allow the Civil Revision Petition.

6. The learned counsel for the respondents submitted that he entered into valid lease agreement with first defendant and the defendants subsequently caused interference then he filed the suit for bare injunction there is no fabrication of lease agreement. He prayed to dismiss this petition.



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7. On seeing the facts, the contention of the second defendant is that the first defendant colluded with plaintiff made a alleged lease agreement in order to make out cause of action. This Court is of the view that, as rightly pointed out by the Trial Court, it could be decided only during the trial, he may prove those facts by producing oral and documentary evidence before the Trial Court. Therefore this Civil Revision Petition is dismissed.

8. Further, O.S No. 86 of 2014 was filed by legal heirs of K.R.Vedachala Chettiar before the Sub Court, Tambaram and transferred and re numbered as O.S 759 of 2021 on the file of the Sub Court, Allandur, which is pending. Another branch of said Vedachala Chettiar filed the suit for the relief of permanent injunction (only male members) in respect of same suit properties which is subject matter of partition suit in O.S 463 of 2022 pending at Principal District Munsif, Alandur. Therefore, for the sake of convenience, and also the suit properties for the above suit are same therefore the suit pending in Sub Court, Alandur, in O.S No. 759 of 2021 is ordered to be transferred and tried along with partition suit in O.S No. 463 of 2002, O.S No. 259 of 2014 and O.S No. 213 of 2015 before the District



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Munsif Court Alandur, and concerned Court is directed to send the bundles to District Munsif Court, Alandur, and the Trial Court is directed to dispose the case within 6 months from the date of receipt of a copy of this order.

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To

1. The District Munsiff Court, Alandur.
2. The Sub Court, Alandur.



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T.V.THAMILSELVI,J.

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