



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2022

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P.PD.No.813 of 2017

and

CMP.No.3978 of 2017

C.Balachandran

... Petitioner/Petitioner/4th Defendant

Vs.

1.R.Sundari

2.V.Ramanathan

3.S.Mahendran

4.S.Manikandan

5.R.Raviyadav

...Respondents / Respondents / Plaintiffs

... Respondents / Respondents / Defendants

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 18.04.2016 passed by the District Munsif Court, Thiruvotriyur in I.A.No.1159 of 22015 in O.S.No.165 of 2012.

For Petitioner .. Mr.S.Arivazhagan

For R1 & R2 .. Mr.S.Purushothama Doss

For R3 to R5 .. No appearance



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ORDER

The 4th defendant in O.S.No.165 of 2012 which is now pending on the file of the District Munsif Court, Thiruvotriyur is the revision petitioner herein.

2.O.S.No.165 of 2012 had been filed by two plaintiffs namely, R.Sundari and V.Ramanathan originally against three defendants namely, S.Mahendran, S.Manikandan and R.Ravi Yadav @ Ravi. The relief sought in the said suit, was for a declaration that a sale deed dated 29.05.2006 registered as Doc.No.4645/2006 and another sale deed also dated 29.05.2006 and registered as Doc.No.4646/2006, both in the Sub Registrar Office, Thiruvottiyur, both executed by the 3rd defendant in favour of the 1st defendant and the 2nd defendant respectively, as null and void and for permanent injunction to protect possession and also to prevent alienation of the suit property.

3. There were two items of suit property and they were both situated at Annai Gangammal Nagar and they are plot nos.25 & 27 in S.Nos.434 and 435. The 1st item measures 900 sq.ft and the 2nd item measures 1500 sq.ft. Both form part of a larger extent of land measuring 7200 sq.ft.



4. During the pendency of the suit, the revision petitioner appears to have purchased the property by Sale Deed dated 07.02.2013. In view of that particular fact, he was impleaded as the 4th defendant in the suit. The amendment had been carried out in the plaint and the amended plaint had also been taken on file by the District Munsif, Thiruvotriyur.

5. After being added as the 4th defendant, an Interlocutory Application in I.A.No.1159 of 2015 had been filed under Order 7 Rule 11 CPC to reject the plaint by the 4th defendant. That particular application was dismissed by order dated 18.04.2016, necessitating the filing of the present Civil Revision Petition.

6. The learned counsel for the revision petitioner stated that the plaintiffs had earlier filed two separate suits in O.S.Nos.230 of 2007 and 233 of 2007 and in both the suits, judgments were delivered on 30.09.2013, wherein, a finding had been given that the vendor of the plaintiffs did not have proper title. It was therefore stated that the plaintiffs had no cause of action to institute the instant suit in O.S.No.165 of 2012. It was also contended that during the course of hearing of I.A.No.1159 of 2015, the revision petitioner had filed a string of documents, but unfortunately, the District Munsif, Thiruvotriyur had not considered any of those documents, but had proceeded to dismiss the



WEB COPY said application. It was stated that the revision petitioner will once again have to go through the trial process and the learned counsel expressed grievance that the same issue, which had been decided in O.S.Nos.230 of 2007 and 233 of 2007 will once again have to be re-examined. It was also stated by the learned counsel that since O.S.Nos.230 of 2007 and 233 of 2007 had been filed by the plaintiffs therein as against other defendants, the present revision petitioner cannot take direct advantage of the findings in the said judgment.

7.Heard arguments advanced by both sides.

8.In any application filed under Order 7 Rule 11 CPC, a whole and meaningful reading of the plaint alone will have to be done by the Trial Court. If on reading of the plaint, a cause of action is disclosed, then the plaintiff should be given an opportunity to substantiate the pleadings and invite an examination to determine whether the reliefs sought should be granted or not.

9.In the instant case, the revision petitioner relies on several documents. They can be urged only during the course of trial. They should be admissible in nature. They should be proved. They should also be relevant. That exercise can be undertaken only during the course of trial. The documents produced will have to be tested during cross-



examination.

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10.The contention of the learned counsel for the revision petitioner that he cannot take advantage of the judgment in O.S.Nos.230 of 2007 and 233 of 2007, is an aspect which actually has to be examined by the Trial Court. The copies of those two judgments may be marked during the course of trial and I would leave it to the wisdom of the District Munsif, Thiruvotriyur to examine whether the reasonings given therein would be binding on the District Munsif, while deciding the issues in O.S.No.165 of 2012.

11.But at any rate, the trial process will have to be necessarily proceeded with. The plaintiffs claims that the two sale deeds registered was null and void and further claims that injunction should be granted. It would only be appropriate that the plaintiffs graze the witness box and speak the facts and those facts are tested during cross-examination.

12.The revision petitioner will also have every opportunity to file all documents which are relevant and if they are admissible in nature, they will be taken on file by the District Munsif and thereafter, a judgment can be given on the issues raised in the plaint. It would only be advisable that the revision petitioner participates in the trial by filing written statement and testing the evidence of the plaintiffs during the



course of trial.

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13. With the said observations, the present Civil Revision Petition stands dismissed. No order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

14. But even though the Revision Petition stands dismissed, it is clearly stated that the revision petitioner / 4th defendant, will have every opportunity to put up all evidence in O.S.No.165 of 2012 and the averments made by him in I.A.No.1159 of 2015 have not been examined on merits and those averments will have to be examined during the course of trial by the learned District Munsif, Thiruvotriyur. The learned District Munsif, Thiruvotriyur is directed to proceed further with the trial in O.S.No.165 of 2012 and take every endeavour to dispose it of on early date.

23.03.2022

Internet: Yes/No

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To

The District Munsif Court, Thiruvotriyur.



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C.V.KARTHIKEYAN,J.

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