



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.02.2022

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (MD)No.1522 of 2019

and

C.M.P. (MD)No.7983 of 2019

1.Nageshwari
2.Sathiyanathan
3.Rajeshwari
4.Parameswaran
5.Shanthi
6.Parameshwari
7.Ramanathan

...Petitioners/D-6 to D-12

Vs.

1.Petchiammal
2.Muthaiah
3.Karuppasamy
4.Palanichami
5.Venkateswaran
6.Lakshmanan

...R-1/Plaintiff

...R-2 to R-6/D-1 to D-5

PRAYER: Civil Revision Petition under Article 227 of the Constitution of India, to allow this Civil Revision Petition setting aside the order dated 12.07.2019 made in I.A.No.504 of 2018 in O.S.No.3 of 2017 on the file of the learned District Munsif, Andipatti.

For Petitioners :Mr.V.Murugan

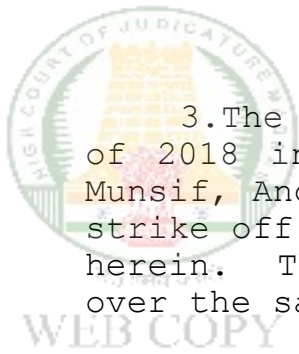
For R-1 :Mr.Prabha, for
Mr.D.Ramesh Kumar

For R-2 to R-6 :No appearance

ORDER

This Civil Revision Petition has been filed to set aside order, dated 12.07.2019 in I.A.No.504 of 2018 in O.S.No.3 of 2017 passed by the learned District Munsif, Andipatti.

2.The parties are referred to as per the rank mentioned before the Court below.



3.The defendant Nos.7 to 13 have filed a petition in I.A.No.504 of 2018 in O.S.No.3 of 2017 on the file of the learned District Munsif, Andipatti, under Order 7 Rule 11 of Civil Procedure Code, to strike off the plaint with exemplary Costs for the reasons mentioned herein. The said petition was dismissed on 12.07.2019. Aggrieved over the said order, the revision petitioners are before this Court.

4.Heard on either side and perused the material documents available on record.

5.This Civil Revision Petition has been filed against the order, dated 12.07.2019 in I.A.No.504 of 2018 in O.S.No.3 of 2017 passed by the learned District Munsif, Andipatti, which was filed for rejection of plaint under order 7 Rule 11 of Civil Procedure Code, on three grounds and one is that there is no cause of action in the plaint and the second is that the property was purchased in the year 2009, but the suit was filed after lapse of eight years i.e., in the year 2017 which is barred under the Limitation Act and the third is abuse of process of law.

6.The plaintiff has filed the suit in O.S.No.3 of 2017 for declaration and permanent injunction. Subsequently, he has filed a amendment petition to withdraw the prayer of declaration. So, it is abuse of process of law. But, already an amendment petition was dismissed by the Court below. At the time of deciding the petition under Order 7 Rule 11 of Civil Procedure Code, only the pleading in the plaint can be allowed into. In the plaint, there is cause of action was stated in paragraph No.9. As the plaintiff purchased the property on 23.12.2009 and the defendants have disturbed his possession on 30.12.2016. This is a cause of action and the rights of the plaintiff is infringed on 30.12.2016. As per cause of action, he has filed the suit in the year 2016 and hence, suit is not barred by limitation. The third one is abuse of process of law. The plaintiff has not purchased the property from this revision petitioners. It can be decided only after full trial. The withdrawal of declaration of relief is also dismissed by the Court below. So, the third ground pleaded by the petitioners is already decided by the trial Court and rightly dismissed the petition.

7.The learned counsel appearing for the revision petitioner relied upon the Judgment in **SLP (CIVIL)No.31844 of 2018 in K.Akbar Ali Vs. K.Umar Khan & Ors.** The paragraph No.13 is extracted hereunder:

.....

"The Division Bench of the High Court has done substantial justice by nipping in the bud, a suit which is ex facie not maintainable for want of cause of action against the defendants or any of them, thereby saving precious judicial time as also inconvenience and



expenditure to the parties to the suit"

8.In the case on hand, there is a cause of action is stated in the paragraph No.9. Hence, the trial Court has rightly dismissed the petition in I.A.No. 504 of 2018 in O.S.No.3 of 2017. The pleading raised by the petitioner can be decided only after full trial.

9.In view of the aforesaid reasons, this Civil Revision Petition is dismissed by confirming the order, dated 12.07.2019 in I.A.No.504 of 2018 in O.S.No.3 of 2017 passed by the learned District Munsif, Andipatti. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ksa

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

The District Munsif,
Andipatti.

+2 CC to M/s.V.MURUGAN, Advocate (SR-8180[F] dated 23/02/2022)

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