



CRP.No.837 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2023

CORAM:

THE HONOURABLE MRS.JUSTICE **T.V.THAMILSELVI**

CRP.No.837 of 2023 and
CMP.No.6346 of 2023

R.Devadoss

... Petitioner

Vs.

M/s.Sivasankar Real Assets Pvt. Ltd.,
Rep. by its Director,
A.Sivasankar,
No.1/460, Mount – Poonamallee Road,
Ayyappanthangal,
Chennai 600 056

... Respondent

PRAYER: Civil Revision petition is filed under Article 227 of the Constitution of India to set aside the fair and decretal order passed in IA.No.1053 of 2019 in OS.No.77 of 2019 dated 20.12.2022 on the file of District Munsif, Chengalpet and to allow the civil revision petition.

For Petitioner : Mr.K.M.Balaji

ORDER

Challenging the impugned order passed in IA.No.1053 of 2019 in OS.No.77 of 2019 dated 20.12.2022 on the file of the District Munsif Court, Chengalpet, the defendant has preferred this revision.



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WEB COPY 2.

The suit in OS.No.77 of 2019 was filed by the respondent herein / plaintiff for the relief of permanent injunction claiming himself as power attorney of the defendant / the petitioner herein. After receipt of summon, the defendant filed application to reject the plaint stating that already power of attorney stood in the name of the plaintiff was cancelled by him on 27.05.2019. But suppressing the said fact, he filed the above suit. As such, it clearly shows that there is no cause of action to file the same. Furthermore, he prayed for the relief to an extent of nearly 20 acres, but the alleged power was restricted only with regard to SF.No.21/1 with an extent of 1.34 acres. Suppressing all the facts, the plaintiff approached the court. As such, the petitioner prayed for rejection of the plaint as no cause of action. The said application was objected by the plaintiff stating that the plaintiff denied the allegation made by the defendant. Considering the both sides, the trial Judge dismissed the said application stating that with regard to cancellation of power of attorney deed and gift deed between the parties are to be proved by adducing evidence as such mixed question of law and facts are involved. Challenging the said order, now the defendant has preferred this revision.



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3. The learned counsel for the petitioner argues that already the power given to the plaintiff was cancelled by him. By suppressing the same, he approached court. Besides, the description of the property was also to vast extent of 20 acres, for which the alleged power was not given to him. So it is a clear case where there is no cause of action and the provision under Order 7 Rule 11 of CPC squarely applies to the facts. But the trial court failed to appreciate the same.

4. On perusal of records reveals that the plaintiff filed the suit in OS.No.77 of 2019 for permanent injunction in respect of the property in survey No.21/1 to an extent of 20 acres, but the contention of the defendant / revision petitioner is that he gave power for one acre and 34 cents and not 20 acres as claimed by the plaintiff. Further, the contention of this revision petitioner is that already the said power of attorney was cancelled. But in the meanwhile, there was a gift deed executed by the plaintiff in favour of Commissioner, Kattankulathur on 02.04.2019 after getting power of attorney from this petitioner. So the cancellation of the power deed and execution of the gift deed in favour of Commissioner, Kattankulathur Panchayat are to be proved by adducing evidence and on the face of mere allegation, it cannot be



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rejected. Therefore, the reasons assigned by the trial judge is justifiable and I do not find any merit to admit the case. However, liberty is granted to the defendant to take these defences before the trial court. The trial judge is also directed to dispose of the suit in OS.No.77 of 2019 as expeditiously as possible.

5. Accordingly, this civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

29.03.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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T.V.THAMILSELVI, J.

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To
The District Munsif,
Chengalpet

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