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C.R.P.No1534 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2023

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

C.R.P.No.1534 of 2019

Mrs.J.James Rani

.. Petitioner/Petitioner/Defendant

.Vs.

Mr.V.Karthikeyan

... Respondent/Respondent/Plaintiff

Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed by the District Munsif, Tambaram, Chennai 600 045 in I.A.No.557 of 2018 in O.S.No.01 of 2018, dated 16.11.2018.

For Petitioner : Mr.A.Ramaswamy

For Respondent : Mr.G.Justin
Mr.V.Antony Elangovan Raj

ORDER

This Civil Revision Petition has been filed by the defendant challenging the fair and final order passed in I.A.No.557 of 2018 in O.S.No.1 of 2018, by the District



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Munsif, Tambaram, dated 16.11.2018, dismissing the application filed under Order 7 Rule 11 of CPC., to reject the plaint.

2.The respondent filed the suit in O.S.No.1 of 2018, seeking for the relief of permanent injunction with respect to the property measuring 1898 sq.ft., situated in Old Survey No.161, Town Survey No.4/29, at Tambaram Taluk, Kancheepuram District. The cause of action for filing the suit was that the respondent/plaintiff became the owner of the suit property by virtue of a settlement deed dated 25.09.2013 and the revenue records also stands in his name and that the petitioner/defendant attempted to trespass into the property. The further cause of action that has been pleaded is that the petitioner/defendant has managed to get certain entries in the revenue records for a different property and he is attempting to make use of the same to interfere with the possession and enjoyment of the suit property.

3.The petitioner/defendant filed the application for rejection of plaint mainly on the ground that the petitioner already filed a suit in OS.No.101/2015, against the respondent/plaintiff, seeking for the relief of permanent injunction and the suit was also decreed through an *ex parte* decree dated 27.10.2015. While so, without revealing this decree, the respondent/plaintiff has filed the present suit with respect to the very same property. That apart, the petitioner also alleged that repeated police



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complaints were given in this regard and Section 145 of Cr.PC., proceedings were also initiated.

4.The main defence that was taken in the rejection of plaint application was that the property pertaining to the present suit is different from the property for which the petitioner/defendant obtained a decree in O.S.No.101/2015. That apart, other factual issues were also raised by the respondent/plaintiff.

5.The Court below on considering the rival contentions came to a conclusion that the matter requires factual consideration and the grounds raised by the petitioner/defendant does not fall within the requirements of Order 7 Rule 11 of CPC., and accordingly, the application was dismissed. Aggrieved by the same, the present Civil Revision Petition has been filed by the defendant.

6.Heard Mr.A.Ramaswamy, learned counsel for the petitioner and Mr.G.Justin, learned counsel appearing on behalf of the respondent.

7.On carefully going through the materials available on record and after carefully considering the submissions made on either side, this Court is of the considered view that the matter requires certain factual considerations and cannot be



decided in a summary manner. The main dispute that is involved in the present case is regarding the identity of the property. The respondent/plaintiff has taken a very specific stand that the suit property is entirely different from the property, for which, the petitioner/defendant obtained a decree in O.S.No.101/2015. That apart, both the parties are relying upon various documents to sustain their right. There are issues, which cannot be gone into an application for rejection of plaint. The Court can only look into the averments made in the plaint and the rejection of plaint application can be considered only within the parameters prescribed under the provision and dealing with disputed factual issues is outside the scope of Order 7 Rule 11 of CPC. Therefore, this Court does not find any illegality or infirmity in the order passed by the Court below.

8.In the present case, the issue raised by both the sides requires appreciation of evidence and the suit was filed in the year 2018 and pleadings are complete and hence, this Court deems it fit and proper to fix a time limit for the completion of the suit. The factual issues that were raised by both the sides can be raised before the Court below and the same will be considered by the Court below on its own merits and in accordance with law.



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9. In the result, this Civil Revision Petition is disposed of with a direction to the District Munsif, Tambaram, Chennai, to dispose of O.S.No.1 of 2018, within a period of **three months** from the date of receipt of copy of this order and report compliance. No costs.

06.01.2023

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Internet: Yes

Index: Yes/No

Speaking Order: Yes/No

To

Sub Court
District Munsif
Tambaram
Chennai 600 045.



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N.ANAND VENKATESH. J.,

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