



CRP No. 1649 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED :28.11.2023

CORAM :

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

Civil Revision Petition No.1649 of 2023
and
CMP.No.10783 of 2023

1.K.K.Kumar

2.R.Rathnasamy

... Petitioner

Versus

1.Sita Bai

2.Latha Rukmani

3.R.Anbazhagan

4.R.Balaganapathi

5.R.Balamurugan

6.V.Meera

7.S.meena

8.S.Ramani

9.T.Maheswari

10.Santhi

11.Hariharan

12.Saranya

... Respondents

Civil Revision Petition filed Under Article 227 of Constitution of India,
praying to strike off the plaint dated 28.07.2022 in O.S.No.6062 of 2022
pending on the file of XV Additional City Civil Court, Chennai.

For Petitioners : Mr.J.Sudhakaran

For R1 & R2 : Mr.R.Krishnasamy

For R3,4,6 to 9 : Mr. N.Nithianandam

For R5 : No appearance

For R10 to 12 : Mr.K.Jayaraman



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ORDER

The petitioner has filed this petition to strike off the plaint dated 28.07.2022 in O.S.No.6062 of 2022 pending on the file of XV Additional City Civil Court, Chennai.

2. The learned counsel for the revision petitioners / defendants 11 & 12 submitted that based on the alleged agreement of the year 2009, the plaintiffs have filed the vexatious suit after a lapse of 13 years against the defendants. In fact the revision petitioners have purchased the property in the year 2015 and in spite of that they are not asking for any declaration, and therefore the suit filed by the plaintiffs is vexatious and liable to be set aside.

3. The learned counsel for the respondents submitted that admittedly there was a sale agreement dated 11.11.2009 between the plaintiffs and defendants 1 to 7 along with one Sivagamy and Vinayagam and the Power of Attorney also subsequently granted and they paid the sale consideration and therefore they have now come forward with the present suit for the relief of specific performance, since two of the executors namely Sivagamy and Vinayagam died. But the defendants 11 and 12 attempted to cause embarrassment, and hence the present suit was filed and already the



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limitation claim was made by the revision petitioners and as such has not been decided based on the averments. It is the mixed question of law and the facts need evidence, therefore they prayed to dismiss the revision. Further, Article 227 of Constitution of India cannot be invoked.

4. Considering both sides submissions, and on a perusal of the records, the plaintiffs have approached the Court for specific performance, against 12 defendants for the sale agreement dated 11.11.2009. Immediately after receipt of the notice they filed this revision, praying to strike off the plaint.

5. Admittedly as per the information, as on date, the revision petitioners have purchased the property for valid consideration. However, the plaint documents the plaintiffs also received EC but there is no specific prayer against the revision petitioners in respect of the purchase, more particularly the relief of declaration as rightly pointed out by the learned counsel for the revision petitioners, liberty is granted to invoke Order VII Rule 11 of CPC. The revision petitioners is directed to file a fresh petition to reject the plaint on merits. The learned trial Judge is directed to dispose of the case on merits in the manner known to law.



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T.V.THAMILSELVI, J.

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6. Accordingly, this Civil Revision petition is disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

28.11.2023

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation:Yes/No
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To

- 1.The XV Additional City Civil Judge, Chennai.
- 2.The Section Officer,
VR-Section, High Court of Madras.

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