



WEB COPY



C.R.P.No.3115 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2023

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. No. 3115 of 2023

and

C.M.P.No. 19284 of 2023

1.Vajaravel

2.Muthu

3.Dev

. . . Petitioners

Versus

Balu Naicker

. . . Respondent

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decretal order dated 01.06.2023 passed in I.A.No.1 of 2023 in O.S.No.92 of 2022 by the District Munsif, Arakkonam, Vellore District.

For Petitioners : Mr.E.Vijayanand

ORDER

Heard Mr.E.Vijayanand, learned counsel for the petitioners and perused the records.



C.R.P.No.3115 of 2023

2. This revision petition is filed against order dated 01.06.2023

passed in I.A.No.1 of 2023 in O.S.No.92 of 2022 by the District Munsif, Arakkonam, Vellore District.

3. According to the petitioners/defendants, the respondent/plaintiff has filed a suit in O.S.No.92 of 2022 on the file of the District Munsif Court, Arakkonam for permanent injunction retraining the defendants to not to interfere with the peaceful possession and enjoyment of the suit schedule properties 'A', 'B' and 'C' and mandatory injunction to remove thorns lying in front of the gate. Further, the second defendant sold 0.1 cent of land ('C' schedule property) to the respondent/plaintiff on 15.12.2008, since from the date of sold, the defendants never interfered into the said 'C' schedule property, but, the respondent/plaintiff encroached the defendants land by way of formation of road.

4. It is contention of the petitioners/defendants that the plaintiff lodged a complaint against the defendants on 26.8.2022 before the Thakkolam Police Station as they have caused trouble to the plaintiff's peaceful possession in the schedule mentioned properties, which is the main cause of action to file the suit. However, the plaintiff has not filed any complaint against the



C.R.P.No.3115 of 2023

defendants on 26.08.2022, but the plaintiff has falsely created a complaint only for the purpose of filing the suit without any cause of action. Hence, the defendants filed an application in I.A.No.1 of 2023 in O.S.No.92 of 2022 seeking to reject the plaint under Order VII Rule 11(a) of Civil Procedure Code, which came to be dismissed on 01.06.2023. Aggrieved by the same, the petitioner has come forward with the present revision petition.

5. The learned counsel for the petitioners submitted that as per Order VII Rule 11 (1) C.P.C it is clear that the plaint shall be rejected, where it does not disclose a cause of action. The main cause of action alleged by the respondent/plaintiff is that as the petitioners/defendants laid thorns in front of the gate of plaintiff's property and obstructed his ingress and egress, the plaintiff preferred a police complaint on 26.8.2022. Due to influence of the first petitioner/first defendant, the same has not been considered by the police officials, as such he filed the suit. Actually, no police complaint was registered against the defendants, which was proved under Exs.P1/ copy of application under RTI Act dated 20.09.2022, Ex.P2/Reply under RTI, and Ex.P3/Reply by the Sub Inspector of Police. However, the trial Court mis constructed and misconceived the allegations and averments with regard to the pleadings and



C.R.P.No.3115 of 2023

cause of action on 26.08.2022 and erroneously dismissed the application, which warrants interference of this Court.

6. On a perusal of the records, it is seen that in the plaint averments, the cause of action raised by the respondent/plaintiff is about the laying of thorns in front of the gate of his property and also obstructed his ingress and egress and hence, he claimed the relief of mandatory injunction. The suit is only for injunction. The issues raised by the learned counsel for the petitioners/defendants are required to be decided only after full fledged trial, and these aspects cannot be decided summarily under an application filed under Order VII Rule 11 of Code of Civil Procedure, which is essential and the same will be decided based on the pleadings of the plaintiff. The trial Court has rightly found that there is no material apparent to attract frivolous litigation at this stage and the defendants have not made out the case for rejection of plaint and dismissed the application.

7. Considering the circumstances, this petition does not deserve any merit and therefore, there is no need to interfere with the impugned order



C.R.P.No.3115 of 2023

WEB COURT passed by the trial Court. Accordingly, this Civil Revision Petition is dismissed.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

30.08.2023

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
ms

To

The District Munsif,
Arakkonam,
Vellore District.



WEB COPY



C.R.P.No.3115 of 2023

V.BHAVANI SUBBAROYAN, J.,

ms

C.R.P.No.3115 of 2023

30.08.2023