



C.R.P.No. 4021 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.R.P.No. 4021 of 2023

and

C.M.P.No. 24600 of 2023

1.P.N.R. Engineering Works,
Rep., by its partner,
112, Big Bazaar Street,
Coimbatore – 641 001.

2.G. Sathishkumar
3.G. Sureshkumar
4.G. Barathan

R.Govindaraju (died)
Nirmala (died)
Saraswathi (died)
Lakshmi Bai (died)

.. Petitioners

Vs

1.N. Babunath
2.N. Devi
3.L. Sumithanath
4.L. Madhumathi

.. Respondents



C.R.P.No. 4021 of 2023

WEB COPY

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside fair and decreetal order dated 15.06.2023 made in I.A.No.697 of 2018 in O.S.No.1033 of 2008 on the file of learned IV Additional District Munsif, Coimbatore.

For Petitioner : Mr. N. Ponraj

ORDER

This Civil Revision Petition is filed challenging the impugned order passed in I.A.No.697 of 2018 in O.S.No.1033 of 2008, the defendants have preferred this revision.

2. Before the trial Court, the defendants / petitioners herein filed an application to reject the plaint on the ground that the plaint has not discloses the cause of action and all the proper trustees were not been added. The petitioners are the tenants in the suit property belongs to trust, they are disputing that the plaintiffs' are not the managing trustees and also the cause of action has not been properly disclose in the plaint.



3. On considering the submissions, the trial Judge held that the cause of action is a bundle of facts which are required to be proved only after obtaining evidence and the reason assigned for rejection of plaint also not comes under the purview of Order VII Rule 11 of CPC. Accordingly, dismissed the application.

4. Challenging the same, the petitioners / defendants preferred this revision.

5. The learned counsel for the petitioners relied on the judgment in ***Atmaram Ranchhodbhai vs. Gulamhusein Gulam Mohiyaddin and Another*** reported in ***AIR 1973 Gujarat 113***, the relevant paragraph is extracted hereunder: -

11. We are, therefore, of the view that unless the instrument of trust otherwise provides, all co-trustees must join in filing a suit to recover possession of the property from the tenant after determination of the lease. No one single co-trustee, even he be a managing trustee unanimously chosen by the co-trustees, can maintain such a suit against the tenant without joining the other co-trustees. All co-trustees must be joined in the suit and if any one or more of them are unwilling to be joined in the suit and if ay



WEB COPY



C.R.P.No. 4021 of 2023

one or more of them are unwilling to be joined in the suit as plaintiffs or for some reason or the other it is not possible to join them as plaintiffs, they must be impleaded as defendants so that all co-trustees are before the Court.

The learned counsel further contend that all the co-trustees were not been impleaded, as such, plaint is ordered to be rejected.

6. On considering the entire plaint averments, the suit was filed in the year 2008 against six defendants for the relief to vacate and delivery of possession and the lease was set to be granted by the managing trustee. After death of the trustee, some of the legal heirs also been impleaded, defendants also appeared and later they filed an application to reject the plaint in the year 2018, the ground for rejection of the plaint is that all the trustees were not been properly impleaded and the plaint does not discloses the cause of action. But on perusal of the plaint filed in the year 2008 trustees were also been impleaded by the plaintiffs / respondents herein and in the paragraph No.13 of the plaint, they clearly described when the lease was granted in favour of the defendant who committed default. Though, the cause of action also properly defined, besides the trustees also properly represented by the plaintiffs, the reason assigned to reject the plaint as such



C.R.P.No. 4021 of 2023

is not acceptable. The trial Judge rightly conclude and dismissed the petition, which needs no interference.

7. The suit was filed in the year 2008, as on date, the defendants / petitioners herein have not filed written statement. If at all any defence want to raise by the defendants, liberty is granted to them to file written statement before the trial Court, within four weeks from the date of receipt of copy of this order. Since suit is pending from the year 2008, the trial Judge is directed to dispose the suit within three months from the date of receipt of copy of this order.

8. In the result, the Civil Revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

09.11.2023

Index :Yes/No
Neutral Citation :Yes/No
AT

To
The IV Additional District Munsif, Coimbatore.

5/6



WEB COPY



C.R.P.No. 4021 of 2023

T.V.THAMILSELVI, J.

AT

C.R.P.No. 4021 of 2023 and
C.M.P.No. 24600 of 2023

09.11.2023