



C.R.P.No.3775 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.R.P.No. 3775 of 2023

and

C.M.P.No. 23478 of 2023

I.K. Sadhasivam

.. Petitioner

Vs

1.Shivam Charitable Trust
Moolakadu,
Represented by its Chairman,
Office at S.S. Nagar
Moolakadu Village,
Mettur Taluk,
Salem District.

2.M. Senthilvelu

3.S. Usharani

4.B. Praveenkumar

5.E. Elavarasan

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order of the Principal District Judge at Salem dated 16.08.2023 in I.A.No.3 of 2023 in O.S.No.126 of 2016.



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For Petitioner : Mr. P. Valliappan,
for M/s. PV Law Associates

ORDER

This Civil Revision Petition is filed challenging the impugned order passed in I.A.No.3 of 2023 in O.S.No.126 of 2016 on the file of Principal District Judge, Salem, the first defendant preferred this revision.

2. Before the trial Court, the revision petitioner, as a first defendant filed I.A.No.3 of 2023 in O.S.No.126 of 2016 praying to reject the plaint under Order 7 Rule 11 and Section 151 of CPC. That application was contested by the plaintiffs / respondents herein by filing objection. The contention of the first defendant is that there is no sufficient cause of action to file the suit and also contend that the plaintiffs denied the allegation of the first defendant.

3. On considering both submissions, the trial Court is of the opinion that there is no illusory cause of action as claimed by the first defendant. The allegations mentioned in the petition also not pertaining



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within the averment of the plaint and all facts can be decided only at the time of trial. Accordingly, the application was dismissed.

4. Challenging, the said finding, the fourth defendant in the suit in O.S.No.126 of 2016 has preferred this revision.

5. The learned counsel for the revision petitioner submits that there is no cause of action to file the suit and the relief claimed by the plaintiffs / respondents herein also not sustainable on the ground of limitation. Furthermore, he also contend that under Section 92 of CPC, the plaintiffs have no right to file the suit before the Court since because it is a public trust. If at all any lawful dispute in running the trust, the same can be decided before this Court or before arbitration not before the civil Court. Therefore, he contend that there is no cause of action to file the suit.

6. On perusal of the written statement filed by the first defendant / revision petitioner herein, in second paragraph, he raised same defence that there is no cause of action to file the suit as well as the suit is barred by



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limitation and also disputing the filing of the suit under Section 92 of CPC, the same was raised in the rejection of the plaint. However, now the case is posted for trial. So the first defendant is entitled to work out all his defence before the trial Court and the trial Judge also rightly observed that the allegations levelled by the first defendant needs evidence, which needs no interference by this Court.

7. Accordingly, this Civil Revision Petition is dismissed as no merits. No costs. Consequently, connected miscellaneous petition is closed. The trial Court is directed to dispose the suit as expeditiously as possible.

02.11.2023

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

To
The Principal District Judge, Salem.



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T.V.THAMILSELVI, J.

AT

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