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C.R.P. No.4108 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2023

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No. 4108 of 2022
and
C.M.P. No. 21352 of 2022

Mohammed Saleem
S/o. Azis

... Petitioner

Versus

R.M.C.Travellers Inn (P) Ltd.,
rep. by its Director M.Health Tito

.. Respondent

PRAYER : Civil Revision Petition is filed under Art. 227 of Constitution of India, praying to set aside the fair order and decreetal order dated 18.11.2022 passed by the learned V Asst. City Civil Judge, Madras dismissing I.A.No.13 of 2022, which was filed under Sec.151 of C.P.C. to dismiss O.S.No.1409 of 2017.

For Petitioner : Mr.N.L.Rajah for
Mr.B.Hari Krishnan

For Respondent : Mr.E.Prabhu



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ORDER

Challenging the impugned order passed in I.A.No.13 of 2022 in O.S.No.1409 of 2017, on the file of V Asst. City Civil Judge, Chennai, the Revision Petitioner/defendant preferred this Civil Revision Petition.

2. For the sake of convenience, the parties are referred as per the ranking in the suit.

3. The plaintiff filed a suit in O.S.No.1409 of 2017 against defendant for bare injunction restraining the defendant from in any manner interfering with his alleged possession and enjoyment of the property in T.S.No. 2/164, 2/165 in Block No.22, Urur Village, Chennai. The defendant denied the title of plaintiff contending that the vendors of the plaintiff have no right to convey the property and to that effect, already various litigations are pending between the parties. So, he filed an Interlocutory Application in I.A.No.13 of 2022 invoking inherent powers under Sec.151 of C.P.C. seeking for dismissal of the suit, being erroneous in nature. After contest, the trial judge concludes that when the plaintiff has not made out a case for rejection of plaint under Order VII Rule 11 of C.P.C. and also there is no specific



provision praying to dismiss the suit, the inherent powers under Sec.151 of

C.P.C. cannot be invoked. Accordingly, the petition was dismissed.

Challenging the said findings, the defendant preferred this Civil Revision Petition.

4. The learned senior counsel for Revision Petitioner argues that if the trial court not found any ground to reject the plaint under Order VII Rule 11 of C.P.C., in any event, if the trial court found that the said suit is frivolous in nature and abuse of process of law, the trial court is empowered to dismiss the suit under Sec.151 of C.P.C. Before the trial court, the Revision Petitioner spell over in his affidavit about the frivolous nature of the suit as well as abuse of process of court made by the plaintiff, inspite of that, the trial judge dismissed the petition erroneously. Hence, the same is liable to be set aside. Further, he has also argued that frivolous litigation pending between the parties at the earliest possible stage, the aggrieved party need not keep the litigation pending for several years and the case in hand, the defendant established the conduct of plaintiff that the plaintiff abused the process of court by filing frivolous applications before the trial court. But, the trial judge failed to appreciate those facts and dismissed the application,



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as such is totally unfair and the same is liable to be set aside. The learned senior counsel would also submit that though the direction issued by this Court to dispose of the suit within a period of four months and instead of cooperating with the trial proceedings, the plaintiff filed the following petitions only in order to drag on the proceedings :-

a) I.A.No.3 of 2019 to direct the Inspector of Police, Shastri Nagar Police Station to give police aid to implement the order of interim injunction in IA.No.4038 of 2017 dated 20.10.2017.

b) I.A.No.4 of 2021 to amend the plaint.

c) I.A.No.5 of 2021 seeking appointment of Advocate Commissioner

d) I.A.No.6 of 2021 to amend the plaint

e) I.A.No.8 of 2021 to reopen IA.No.5 of 2021

f) I.A.No.9 of 2021 to implead POA agent of C.T.Saraswathi and

Dr.Parameswaran

g) I.A.No.10 of 2022 to produce partition deed dated 16.02.2015

h) I.A.No.11 of 2022 for cross examination

i) and also Tr.OP.No.25 of 2022



5. Furthermore, the learned senior counsel argues that the plaintiff is not having any title over the property, but instead of approaching the court to prove his title, he filed application one after another only with an intention to harass the defendant. Hence, the Revision Petitioner filed an application under Section 151 of C.P.C. to dismiss the suit as it is frivolous one.

6. In support of his contentions, the learned Senior Counsel appearing for the petitioner relied on the following authorities:

(i) ***Shipping Corporation of India Ltd Vs. Machado Brothers and Ors*** reported in ***(2004) 11 SCC 168***

17.....At the same time, we are unable to accept the argument of the learned counsel for the respondent who contended that the revision petition filed by the appellant before the High Court was not maintainable because of the availability of a remedy by way of an appeal. We have carefully examined the various provisions of the CPC which provides or contemplates filing of an appeal but we find no such provision available to the appellant to file an appeal against the order made by the trial court on an application filed under Section 151 CPC. Nor has the learned counsel appearing for the respondent been able to point out any such provision



therefore, the said argument has to be rejected.

20. From the above, it is clear that if there is no specific provision which prohibits the grant of relief sought in an application filed under Section 151 of the Code, the courts have all the necessary powers under Section 151 CPC to make a suitable order to prevent the abuse of the process of court. Therefore, the court exercising the power under section 151 CPC first has to consider whether exercise of such power is expressly prohibited by any other provisions of the Code and if there is no such prohibition then the Court will consider whether such power should be exercised or not on the basis of facts mentioned in the application.

25. Thus it is clear that by the subsequent event if the original proceeding has become infructuous, ex debito justitiae, it will be the duty of the court to take such action as is necessary in the interest of justice which includes disposing of infructuous litigation. For the said purpose it will be open to the parties concerned to make an application under Section 151 of CPC to bring to the notice of the court the facts and circumstances which have made the pending litigation infructuous. Of course, when such an application is made, the court will enquire into



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the alleged facts and circumstances to find out whether the pending litigation has in fact become infructuous or not.

27. While dismissing the application I.A.No.20651/2001 the courts below proceeded not on the basis that the original notice of termination has not become infructuous, but on the basis that the said application lacks in bona fide and if the said application is allowed the interlocutory injunction hitherto enjoyed by the plaintiff will get vacated and consequently the plaintiff will be prejudiced. The question for our consideration now is whether such ground can be considered as valid and legal. While so considering the said question one basic principle that should be borne in mind is that interlocutory orders are made in aid of final orders and not vice versa. No interlocutory order will survive after the original proceeding comes to an end. This is a well established principle in law as could be seen from the judgment of this Court in *Kavita Trehan (Mrs.) & Anr. vs. Balsara Hygiene Products Ltd.* (1994 5 SCC 380) wherein it is held :



"Upon dismissal of the suit, the interlocutory order stood set aside and that whatever was done to upset the status quo, was required to be undone to the extent possible."

(ii) ***Aanaimuthu Thevar (dead) by Lrs Vs. Alagammal & Ors***
reported in ***(2005) 6 SCC 202***
with regard to dispute of title of plaintiff is necessary.

The issues framed in the former suit have been reproduced above. No specific issue seems to have been framed on title or ownership of the suit house but the issues raised on the existence and validity of the mortgage deed and the fact or otherwise of the alleged settlement pleaded by the defendant in the village panchayat substantially involved decision on claim of right and ownership of the house by the husband. The other issue raised was concerning the dispute as to who was in possession of the suit house.

(iii) ***M/s.Shiv Cotex Vs. Tirgun Auto Plast P.Ltd and Others***
reported in ***(2011) 9 SCC 678***

14. Second, and equally important, the High Court upset the concurrent judgment and decree of the two courts on misplaced sympathy and non - existent justification. The



High Court observed that the stakes in the suit being very high, the plaintiff should not be non-suited on the basis of no evidence. But, who is to be blamed for this lapse? It is the plaintiff alone. As a matter of fact, the trial court had given more than sufficient opportunity to the plaintiff to produce evidence in support of its case. As noticed above, after the issues were framed on July 19, 2006, on three occasions, the trial court fixed the matter for the plaintiff's evidence but on none of these dates any evidence was let in by it. What should the court do in such circumstances? Is the court obliged to give adjournment after adjournment merely because the stakes are high in the dispute? Should the court be a silent spectator and leave control of the case to a party to the case who has decided not to take the case forward?

15. It is sad, but true, that the litigants seek - and the courts grant - adjournments at the drop of the hat. In the cases where the judges are little pro-active and refuse to accede to the requests of unnecessary adjournments, the litigants deploy all sorts of methods in protracting the litigation. It is not surprising that civil disputes drag on and on. The misplaced sympathy and indulgence by the appellate and revisional courts compound the malady further. The case in hand is a case of such misplaced sympathy. It is high



time that courts become sensitive to delays in justice delivery system and realize that adjournments do dent the efficacy of judicial process and if this menace is not controlled adequately, the litigant public may lose faith in the system sooner than later. The courts, particularly trial courts, must ensure that on every date of hearing, effective progress takes place in the suit.

(iv) ***T.V.Ramakrishna Reddy Vs. M.Mallappa***

reported in **2021 SCC Online SC 674**

9. The issue is no more res integra. The position has been crystalised by this Court in the case of [Anathula Sudhakar v. P. Buchi Reddy](#) (dead) by L.Rs. and others I in paragraph 21, which read thus:

“21. To summarise, the position in regard to suits for prohibitory injunction relating to immovable property, is as under:

(a) Where a cloud is raised over the plaintiff's title and he does not have possession, a suit for declaration and possession, with or without a consequential injunction, is the remedy. Where the plaintiff's title is not in dispute or under a cloud, but he is out of possession, he has to sue for possession with a consequential injunction. Where there is



merely an interference with the plaintiff's lawful possession or threat of dispossession, it is sufficient to sue for an injunction simpliciter.

(b) As a suit for injunction simpliciter is concerned only with possession, normally the issue of title will not be directly and substantially in issue. The prayer for injunction will be decided with reference to the finding on possession. But in cases where de jure possession has to be established on the basis of title to the property, as in the case of vacant sites, the issue of title may directly and substantially arise for consideration, as without a finding thereon, it will not be possible to decide the issue of possession.

(c) But a finding on title cannot be recorded in a suit for injunction, unless there are necessary pleadings and appropriate issue regarding title (either specific, or implied as noticed in Annaimuthu Thevar [[Annaimuthu Thevar v. Alagammal](#), (2005) 6 SCC 202]). Where the averments regarding title are absent in a plaint and where there is no issue relating to title, the court will not investigate or examine or render a finding on a question of title, in a suit for injunction. Even where there are necessary pleadings and issue, if the matter involves complicated questions of fact and law relating to title, the court will relegate the



parties to the remedy by way of comprehensive suit for declaration of title, instead of deciding the issue in a suit for mere injunction.

(d) Where there are necessary pleadings regarding title, and appropriate issue relating to title on which parties lead evidence, if the matter involved is simple and straightforward, the court may decide upon the issue regarding title, even in a suit for injunction. But such cases, are the exception to the normal rule that question of title will not be decided in suits for injunction. But persons having clear title and possession suing for injunction, should not be driven to the costlier and more cumbersome remedy of a suit for declaration, merely because some meddler vexatiously or wrongfully makes a claim or tries to encroach upon his property. The court should use its discretion carefully to identify cases where it will enquire into title and cases where it will refer to the plaintiff to a more comprehensive declaratory suit, depending upon the facts of the case.”

17. Insofar as the reliance on the order passed by the learned single judge of the Karnataka High Court dated 10.2.2000 in Writ Petition No.38853 of 1999 is concerned, it



will be relevant to refer to the following observations made therein:

“3. It is evident from the plain reading of the above that any entry made in the Corporation Register by fraud, misrepresentation or suppression of facts or by furnishing false, incorrect and incomplete material could be corrected within a period of three years from the date of such recording. The Order in the instant case was passed admittedly much beyond the period of limitation prescribed by the provision extracted above. The same is therefore unsustainable on that ground itself. The parties being in litigation before the Civil Court could upon adjudication of the controversy regarding the title to the property approach the Corporation for any modification in the entry which is no more any modification in the entry which is no more than a fiscal entry relevant only for purpose of payment of taxes and does not by itself create or extinguish title to the property in regard to which it is made. Till such time the competent Court declared the 3rd respondent as the true owner of the property, the Corporation could not on its own correct the entry after a period of 3 years stipulated under Sec. 114-A of the Act.



4. *This writ petition accordingly succeeds and is hereby allowed. The impugned order shall stand quashed reserving liberty for the parties to have the matter adjudicated upon by the Civil Court and to approach the Corporation for a fresh entry/modification of the existing entry to bring the same in consonance with the Civil Court's determination. No costs."*

18. *It could thus be clearly seen that the High Court in the said order has clearly noted that the parties are in litigation before the Civil Court and that adjudication of controversy regarding the title of the suit property could be done only by the Civil Court. The entry with the Corporation is nothing more than a fiscal entry relevant only for the purpose of payment of taxes and does not by itself create or extinguish title to the property. The Court observed that till such time the competent Court declared the third respondent therein as the true owner of the property, the Corporation could not on its own correct the entry after a period of 3 years stipulated under Section 114-A of the Act. The High Court has therefore set aside the order reserving liberty for the parties to have the matter adjudicated upon by the Civil Court.*



20. It will also be relevant to refer to the following observations of this Court in the case of *Jharkhand State Housing Board v. Didar Singh* and another:

“11. It is well settled by catena of judgments of this Court that in each and every case where the defendant disputes the title of the plaintiff it is not necessary that in all those cases plaintiff has to seek the relief of declaration. A suit for mere injunction does not lie only when the defendant raises a genuine dispute with regard to title and when he raises a cloud over the title of the plaintiff, then necessarily in those circumstances, plaintiff cannot maintain a suit for bare injunction.”

(v) ***Anathula Sudhakar Vs. P.Buchi Reddy(dead) by Lrs & Ors*** reported in **(2008) 4 SCC 594**

21(d) Where there are necessary pleadings regarding title, and appropriate issue relating to title on which parties lead evidence, if the matter involved is simple and straight-forward, the court may decide upon the issue regarding title, even in a suit for injunction. But such cases, are the exception to the normal rule that question of title will not be decided in suits for injunction. But persons having clear title and possession suing for injunction, should not be driven to the costlier and more



cumbersome remedy of a suit for declaration, merely because some meddler vexatiously or wrongfully makes a claim or tries to encroach upon his property. The court should use its discretion carefully to identify cases where it will enquire into title and cases where it will refer to plaintiff to a more comprehensive declaratory suit, depending upon the facts of the case.

(vi) *Irmeet Singh Kohli & Ars Vs. Ashok Kumar Batra & Anr*
reported in **2017 SCC online Del 10614**

19. A Division Bench of this court in the case of [Aniruddha Dutta & Ors. vs. Bhawani Shanker Basu & Ors.](#), 2012 (127) DRJ 70 held as follows:-

"28. A Court of record has every inherent power to prevent the abuse of its process and Order 7 Rule 11 of the Code of Civil Procedure is not the complete reservoir of the power of nip a frivolous suit when it is still in the stage of infancy. The inherent powers of a Court of record, and we highlight that Section 151 of the Code of Civil Procedure does not confer, but saves the inherent power of a Court also constitutes the reservoir of the power of a Court of record to throw out vexatious suits."



20. Similarly, the Rajasthan High Court in the case of *Temple of Thakur Shri Mathuradassji vs. Shri Kanhaiyalal & Ors.*, 2008 (1) ILR (Raj) 619, in para 16 held as follows:-

"16. ... If the suit is abuse of process of the court and cannot be dismissed under Order 7 Rule 11 CPC then the court is not helpless and can accordingly invoke the powers under Section 151 CPC and can dismiss the suit under Section 151 CPC. Frivolous litigations are required to be nipped in the bud at the earliest possible stage otherwise no relief to the aggrieved party because of the reason that sole object of the frivolous litigation is to drag adversary in the litigation till it is dismissed consuming several years in trial. If court reaches to the conclusion that suit is frivolous from the totality of the facts brought on record or which have come on record then by not dismissing the suit at earliest, the court virtually declares that a frivolous suit can demand trial of suit and aggrieved party has no remedy against frivolous suit. If there are creases in the law or sometimes is left out or not specifically provided in statute then they are required to be ironed out by the courts by interpreting the law in a manner to advance the cause of justice and no party can be left with no remedy against frivolous suits. At the cost of repetition, it is observed that the continuation of frivolous



suit against any person on the ground that it cannot be dismissed since there is no provision under Order 7 Rule 11 CPC is virtually denying an aggrieved party his right to crush the frivolous litigation without suffering the trial of suit."

21. Similarly, another Division Bench of this court in the case of [Keshav Chander Thakur & Anr. v. Krishan Chander & Ors.](#), 211 (2014) DLT 149, has also approved the above legal position noting that a frivolous suit should be nipped in the bud, i.e., at the initial stage itself. The suit filed by the respondents on a meaningful reading of the plaint is completely frivolous and only an attempt to abuse the process of the court to delay the eviction petition filed by the petitioners. The same is liable to be dismissed on this ground also.

(vii) *Temple of Thakur Shri Vs. Shri Kanhaiyalal and Others*
reported in **2008 SCC online Raj 530**

15. Totality of the circumstances clearly shows that the plaintiffs filed the suit for taking benefit of procedure provided by the Civil Procedure Code and, therefore, submitted that plaint of the plaintiffs could have been rejected under Order 7 Rule 11 CPC. Under Order 7 Rule 11 CPC plaint can be rejected on the grounds mentioned



in the Order 7 Rule 11 CPC like the suit is barred by law or it does not disclose the cause of action or proper court fees has not been paid even after order of the court. If the suit is abuse of process of the court and cannot be dismissed under Order 7 Rule 11 CPC then the court is not helpless and can accordingly invoke the powers under Section 151 CPC and can dismiss the suit under Section 151 CPC. Frivolous litigations are required to be nipped in the bud at the earliest possible stage otherwise no relief to the aggrieved party because of the reason that sole object of the frivolous litigation is to drag adversary in the litigation till it is dismissed consuming several years in trial. If court reaches to the conclusion that suit is frivolous from the totality of the facts brought on record or which have come on record then by not dismissing the suit at earliest, the court virtually declares that a frivolous suit can demand trial of suit and aggrieved party has no remedy against frivolous suit. If there are creases in the law or sometimes is left out or not specifically provided in statute then they are required to be ironed out by the courts by interpreting the law in a manner to advance the cause of justice and no party can be left with no remedy against frivolous suits. At the cost of repetition, it is



observed that the continuation of frivolous suit against any person on the ground that it cannot be dismissed since there is no provision under Order 7 Rule 11 CPC is virtually denying an aggrieved party his right to crush the frivolous litigation without suffering the trial of suit.

16. The appellant's application filed under Order 41 Rule 27 CPC is absolutely frivolous because of the simple reason that neither the documents referred by the appellant in the application are relevant for the purpose of finding out the relation of tenants with the purchasers nor the tenants after attorning to the purchasers of the property can question his landlords' title nor can disown the relationship of tenancy. Further more, the appellants were fully aware about the documents in question and they failed to produce the evidence before the trial court in last about more than 9 years and he failed to explain the reason for delay, hence, the application filed under Order 41 Rule 27CPC is dismissed.

(viii) *Keshav Chander Thakur & Anr Vs. Krishnan Chander & Ors* reported in 2014 SCC online Del 3092

38. We concur with the view of the learned Single



Judge. However, we may like to note that the learned Single Judge has exercised powers under Order VII Rule 11 CPC while rejecting the plaint. The scope of exercise of powers under Order VII Rule 11 CPC is limited by the contours of the provision. While exercising those powers what has to be seen is only the averments in the plaint and the documents filed along with the plaint. The defence as taken in the written statement is not to be gone into for the said purpose. To that extent, the judgment of the learned Single Judge may suffer from an infirmity. However, in our view given the nature of pleadings and admitted documents on record and the extensive arguments advanced by the parties on the issues discussed herein, this was a fit case for the Court to exercise powers under Order XII Rule 6 CPC where the Court has powers to suo motu pass a judgment. There is no requirement in Order XII Rule 6 CPC for filing of a formal application. The Court can on its own motion without any application by a party proceed to pass a decree on admissions as stated in Order XII Rule 6 CPC. Order XII Rule 6(i) CPC reads as follows:-

"6. Judgment on admissions.- (1) Where admissions of fact have been made either in the pleading or otherwise,



whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may thing fit, having regard to such admissions."

In our view based on the pleadings and documents placed on record by the parties there are clear admissions of fact which warrant passing of the order of dismissal of the plaint.

39. We also concur with the view expressed in the impugned order that the appellants by the present suit seek to challenge the fairness of the distribution of the assets done in 1976 nearly 35 years afterwards. Given the lapse of time the impugned order rightly holds that the status that has prevailed for the last 35 years ought not to be disturbed. We also cannot help noticing that what is being sought by the appellants is the share of Late Major Puran Chander, the appellants being his legal heirs. Appellant No.2 being the widow, suffered from no legal disability but has chosen not to challenge the distribution that has taken place for 35 years. Appellant No.1 became a major in 1984. He has woken up now 27 years later to claim a



partition of the properties, claiming ignorance of the registered perpetual sub-lease and the partition decree. The whole exercise appears to be motivated by the fact that the property in Delhi is located in a prime residential area of South Delhi whose value has appreciated hugely in the last decade or so. The present suit is clearly vexatious.

40. The Division Bench of this court in the case reported as 2012 (127) DRJ 70 [Aniruddha Dutta & Ors. vs. Bhawani Shanker Basu & Ors.](#) held as follows:-

"28. A Court of record has every inherent power to prevent the abuse of its process and Order 7 Rule 11 of the Code of Civil Procedure is not the complete reservoir of the power of nip a frivolous suit when it is still in the stage of infancy. The inherent powers of a Court of record, and we highlight that Section 151 of the Code of Civil Procedure does not confer, but saves the inherent power of a Court also constitutes the reservoir of the power of a Court of record to throw out vexatious suits."

7. Based on the above propositions, the learned Senior Counsel argues that the trial judge failed to consider the conduct of the plaintiff as such the suit is frivolous in nature, which is liable to be dismissed by invoking Section 151 of C.P.C. Instead of that, he erroneously dismissed the

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application filed by the Revision Petitioner in I.A.No.13 of 2022 in O.S.No.1409 of 2017 holding that since the defendant is not having any ground to reject the plaint under Order 7 Rule 11 of C.P.C., as he falsely invoking Section 151 of C.P.C. to dismiss the suit as such it is not permissible under law is totally erroneous one and the same is liable to be set aside. Furthermore, the trial judge failed to consider that the relief claimed by the Revision Petitioner is valid one.

8. Referring the ratio laid down in the above referred cases, the learned senior counsel for Revision Petitioner would also submit that without asking the relief of declaration, the plaintiff filed a bare injunction suit and even in the earlier proceedings, this Court gave a direction in other connected litigations as if the plaintiff is not cooperating with the trial proceedings, on the other hand, he filed number of vexatious applications before the trial court with an intention to drag on the proceedings. So, it is a clear case of abuse of process of law and prayed to dismiss the said suit by allowing this appeal.

9. By way of reply, the learned counsel for plaintiff would submit that the suit property originally belong to K.Delli achari, his sisters and brothers



through a partition deed and from them, he purchased the property through 7 sale deeds in the year of 2011 and 2012. He would submit that as he is in possession of the property, he obtained patta from the Tahsildar, Mylapore-Triplicane Taluk in the year of 2012. As there was a superstructure in the suit property, he obtained a demolition order to demolish the superstructure and kept the suit property vacant for further development. Subsequently, in the year of 2017, the 2nd defendant approached the plaintiff to purchase the property and there is a written sale agreement, but the cheque issued by the defendant for the advance sale consideration was dishonoured. So, the plaintiff is not inclined to sell the property to him. Thereafter, he wanted to put up a compound wall in the suit property, at that time, unknown persons trespassed and damaged the property. Subsequently, he came to know that the defendant only engaged the rowdy elements. Hence, he filed the present suit to protect the possession of the suit property and he is having valid defence to prove his case. Furthermore, the necessity arose for him to file an Interlocutory Application for appointment of advocate commissioner and to amend the pleadings, which are the remedies available to the plaintiff under the statute, but he has not filed any such application. Therefore, the trial



judge rightly dismissed the application filed by the defendant and prayed to dismiss this Civil Revision Petition as no merits.

10. Heard and considered rival submissions of learned counsel for Revision Petitioner as well as respondent and perused the records.

11. Considering both side submissions and on perusal of records, it reveals that the plaintiff filed a suit for bare injunction against the defendant/Revision Petitioner contending that he purchased the property from one Delli Achari and his family members through 7 sale deeds during the year of 2011 and 2012 and also obtained patta. While he demolished the superstructure and put up a compound wall, the defendant has trespassed and caused damages. By way of written statement, the defendant denied the title of the plaintiff and also content that one M/s.Sakthivel Investments, represented by its partners are the owners of property and they have filed a suit in O.S.No.857 of 1965 against the tenants to evict the occupiers of the suit property, wherein the trial judge held that Delli Achari was entitled to the protection under Sec.9 of City Tenants Protection Act. Furthermore, there was a compromise in that suit by fixing the land cost, but no sale deed executed by one Sakthivel Investments in favour of tenants and till date, the



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predecessors of Delli Achari also not taken steps to get the execution of sale deed. So, the plaintiff's vendor entered into an agreement of sale in the year of 1993 with one Sambandam and others. Out of which, a suit in C.S.No.508 of 2008 was filed for the relief of specific performance, in which father of plaintiff is also one of the defendant in that suit. Now, the said suit was transferred to City Civil Court, Chennai. So, vendors of plaintiff have not obtained any deed of conveyance from the said Sakthivel Investment in respect of the suit property and to overcome the same, he fabricated the document, thereby the defendant totally denied the title of plaintiff. The defendant would also content that when the title itself is denied, the bare injunction suit as such is frivolous one and the same is liable to be dismissed. He would further content that patta granted in favour of plaintiff was also cancelled on 11.11.2020 by allowing the appeal and against which, the plaintiff filed a Writ Petition in W.P.No.7211 of 2021 and on merit, the said Writ Petition was also dismissed.

12. The defendant also filed an Interlocutory Application in I.A.No.14280 of 2018 under Sec. 10 of C.P.C. praying to stay the suit and the same was allowed. Against which, a Civil Revision Petition in



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C.R.P.No.2688 of 2019 was filed. While disposing the same, this court fixed four months time to conclude the trial, but the plaintiff not commenced the trial, instead of that, he has filed the following Interlocutory Applications :-

- a) I.A.No.3 of 2019 was filed under Sec.151 of C.P.C. to direct the Inspector of Police, Shastri Nagar Police Station to give police aid to implement the order of interim injunction in IA.No.4038 of 2017 dated 20.10.2017.
- b) I.A.No.4 of 2021 was filed under Order VI Rule 17 r/w Sec.151 of C.P.C. to amend the plaint.
- c) I.A.No.5 of 2021 was filed under Order XXVI Rule 17 r/w Sec.151 of C.P.C. seeking appointment of Advocate Commissioner
- d) I.A.No.6 of 2021 was filed under Order VI Rule 17 r/w Sec.151 of C.P.C. to amend the plaint
- e) I.A.No.8 of 2021 was filed under Order 151 of C.P.C. to reopen I.A.No.5 of 2021
- f) I.A.No.9 of 2021 was filed under Order 1 Rule 10(2) of C.P.C.. to implead Power of Attorney agent of C.T.Saraswathi and Dr.Parameswaran
- g) I.A.No.10 of 2022 was filed under Rule 14 of C.P.C. to produce partition deed dated 16.02.2015
- h) I.A.No.11 of 2022 was filed under Order XIX Rule 4 of C.P.C. for cross examination with regard to the averment made



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in the counter affidavit in I.A.No.10 of 2022.

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10. Furthermore, he has also filed Tr.O.P.No. 25 of 2022 before the Principal Judge, City Civil Court, Chennai to try along with the suit in C.S.No. 508 of 2008 (O.S.No. 5118 of 2020. While allowing the said petition, the learned Principal Judge also directed to dispose the case, but instead of conducting the proceedings, the plaintiff filed another application to implead the party. By submitting all these facts, the learned counsel for Revision Petitioner would submit that while filing several Interlocutory Applications without any materials as such is frivolous in nature and also filed a bare injunction suit without asking the relief of declaration though it was denied the defendant from the initial stage itself, but the plaintiff has not taken any steps to claim the relief of declaration nor he is cooperating for commencing the trial proceeding inspite of direction given by this court, on the other hand filing vexatious applications as such the suit is amounting to clear case of abuse of process of law.

11. On perusal of records, the fact remains that before the trial court, the plaintiff filed number of Interlocutory Applications to implead the



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parties, to appoint advocate commissioner, to give police protection, to amend the plaint, to give a direction to produce the partition deed, to direct the defendant to subject to cross-examination in the I.A. All these applications were heard by the trial judge and disposed of on merits on various dates from the year of 2021 to 2022.

12. Admittedly, while disposing C.R.P., in respect of connected suit, this court also directed the trial court to dispose the case as early as possible, but due to the filing of various vexatious applications, the trial judge also not able to proceed with the trial. The foremost objection of defendant is that plaintiff not claimed the relief of declaration and he simply filed a bare injunction suit, which itself shows that he wanted to drag on the proceedings for number of years in order to harass this defendant. But, on seeing the entire plaint averments, the plaintiff claimed title over the property based on 7 sale deeds, but the title of mentor of plaintiff is denied by the defendant by relying various circumstances as well as contention of other litigations. But the main issue in the present case in hand is whether the plaintiff is entitled for the relief of injunction, which is a mixed question of law and facts and the same cannot be dictated on the face of record. However, it is an admitted



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fact that the plaintiff filed number of Interlocutory Applications, but those remedies are available to the plaintiff under the statute in order to prove his case before the trial court. Therefore, by filing applications before the trial court are remedies given under the statute cannot be deemed as frivolous in nature, since because all the applications are disposed of on merits by the trial judge. If at all, the defendant is aggrieved, he has to prefer a Revision Petition before the appropriate forum. Therefore, the remedy available to the plaintiff to protect his property by invoking statutory provision of law is not amounting to abuse of process of law. Therefore, the objection raised by the defendant is not acceptable one and the trial judge though dismissed the applications holding that by invoking inherent power, the suit cannot be dismissed nor no ground to reject the plaint under Order VII Rule 11 of C.P.C. But as discussed above, the plaintiff is entitled to file application by invoking statutory provision of law, but at the same time, he is also expected to cooperate with the proceedings to dispose the case, since because already there is an observation made by this court. Accordingly, this Civil Revision Petition is dismissed as no merits and the findings of the trial judge in I.A.No. 13 of 2022 is confirmed. No costs. Consequently, connected Civil



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Miscellaneous Petition is closed.

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To

V Asst. Judge,
City Civil Court, Chennai.

T.V.THAMILSELVI, J.

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