



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **22.08.2023**

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.3623 of 2019
and C.M.P.No.17851 of 2021

1.M/s.Hot Male Retail PRivate Limited,
Represented by its Manager R.Surendran
No.92, G.A.Road,
Old Washermenpet,
Chennai - 600 021.

2.Prince Kumar,
Partner M/s.Hot Male Retail PRivate Limited.

3.Hastimal Surana,
Partner M/s.Hot Male Retail PRivate Limited.

4.Vishal Surana
Partner M/s.Hot Male Retail PRivate Limited.

... Petitioners

Vs

T.Varunkumar

... Respondents

PRAYER:-Civil Revision Petition filed under Section 115 of the Code of Civil Procedure to under Article 227 of the Constitution of India against fair and decreetal order dated 22.08.2019 passed in I.A.No.1 of 2019 in O.S.No.6144 of 2018 by the learned XI Assistant Judge, City Civil Court, Chennai.



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For Petitioners : Mr.C.Jayavel

For Respondent : Mr.G.Mohammed Aseef

ORDER

This Civil Revision Petition arises against the order passed in I.A.No.1 of 2019 in O.S.No.6144 of 2018.

2. O.S.No.6144 of 2018 is a suit filed for the relief of permanent injunction restraining the defendants from encumbering or alienating the property situated in Ambattur. It is not in dispute that all the defendants are residing within the jurisdiction of the City Civil Court, Madras namely at G.A.Road, Old Washermenpet, Chennai.

3. It is the argument of the learned counsel for the petitioners that the City Civil Court ought to have rejected the plaint since, the suit schedule mentioned property is situated outside the territorial jurisdiction of the City Civil Court, Chennai. Order VII Rule 11 of Code of Civil Procedure gives the grounds on which a plaint can be rejected. The lack of territorial jurisdiction is not one such ground. In



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fact, territorial jurisdiction must be raised at the earliest available opportunity as per Section 21 of the Code of Civil Procedure. The suit was presented in August, 2018, but the application for rejection was taken out only in April 2019.

4. Apart from that, the plaintiff has not shown what is the “failure of justice” that would occur in case, the suit is entertained by the City Civil Court, Chennai. As per Section 21 of Code of Civil Procedure, the question of jurisdiction must be accompanied by failure of justice. Even if one head is not answered, the suit automatically remains on the file of the Court. Further, the reading of the relief would show that it is a relief “*in personam*”. It does not relate to any right in the immovable property, but, seeks for injunction restraining the defendants from alienating the property. The decree if granted will not act on the property but act on the defendants. Therefore, I am not in agreement with the submission made by the learned counsel for the petitioner.



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5. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

22.08.2023

gba

Index: Yes/ No

Speaking order: Yes/ No

Neutral Citations: Yes/ No

To

The XII Assistant Judge,
City Civil Court, Chennai.



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V. LAKSHMINARAYANAN,J.

Gba

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