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C.R.P.(MD)No.1396 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P.(MD)No.1396 of 2023

and

C.M.P.(MD)No.6934 of 2023

R.Nagendran

.. Petitioner

Versus

M.Chittu

.. Respondent

Prayer :- Petition filed under Article 227 of the Constitution of India, to strike off the plaint in O.S.No.74 of 2022, on the file of the District Munsif-cum-Judicial Magistrate Court, Alangudi.

For Petitioner

:

Mr.R.Balakrishnan

ORDER

This Civil Revision Petition has been filed to strike off the plaint in O.S.No.74 of 2022, on the file of the District Munsif-cum-Judicial Magistrate Court, Alangudi.

2.The petitioner is a senior citizen, aged about 82 years, who has been arrayed as defendant in O.S.No.74 of 2022 before the District Munsif-cum-Judicial Magistrate Court, Alangudi. The said suit has been filed by the respondent against the petitioner herein for a permanent injunction, to restrain the petitioner from



interfering with the peaceful possession of the suit schedule property in S.No.232/11 and not to evict her without due process of law.

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3.The specific case of the petitioner is that the suit schedule property was originally belonged to one Ramanathan Servai. Further, the properties of the said Ramanathan Servai were maintained by the petitioner's father Rasaiya. The said Ramanathan Servai had proposed to transfer his rights in respect of the suit schedule property to the petitioner. However, all of a sudden, Ramanathan Servai died before execution of the deed. The petitioner has also obtained Patta in respect of the land in question and he is in possession and enjoyment of the property measuring an extent of 0.02.0 Ares [approximately 5 cents].

4.It is submitted that the respondent has occupied the property when the petitioner was affected by Covid-19 and has put up a thatched hut. When the petitioner approached the respondent to vacate the premises, the respondent has rushed to the Court below and filed O.S.No.74 of 2022. It is further submitted that the petitioner, being a senior citizen, has also filed appropriate application on 25.07.2022 before the District Collector, Pudukottai, under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 read with Rules 20 and 21 of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules, 2009.



5. It is submitted that appropriate steps are being taken and it is in the above background, the suit has been filed by the respondent before District Munsif-cum-Judicial Magistrate Court, Alangudi, to frustrate the proceedings initiated by the petitioner. That apart, the learned counsel for the petitioner submitted that the respondent/plaintiff is not the owner of the land in S.No.232/11 and her husband has utilized the document pertaining to S.No.232/31 for getting electricity service connection in S.No.232/11 of the petitioner. It is submitted that the Assistant Engineer, Vallathirakottai, Pudukottai District, has also initiated proceedings to cancel the electricity service connection obtained fraudulently by the respondent's husband in terms of the proceedings, bearing Letter No.க.எண்: உ.மிபொ/இகா/வ.கோட்டை/கோ:கட்டு/அ.எண்:153/22-23, dated 19.12.2022.

6. I have considered the arguments advanced by the learned counsel for the petitioner.

7. Although the petitioner appears to have made out a *prima facie* case on merits for the suit to be dismissed, I am of the view that there cannot be summary disposal of the suit, which has been validly instituted by the respondent/plaintiff. Though the Court may come to a conclusion that the suit is not *bona fide* and lacks and is based on incorrect documents, these are the matters which are looked into by the Court.



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8.Considering the fact that the petitioner is a senior citizen, this Court is inclined to dispose of the Civil Revision Petition at the admission stage, dispensing with notice on the respondent, by directing the learned District Munsif-cum-Judicial Magistrate, Alangudi, to dispose the suit in O.S.No.74 of 2022 within a period of six months from the date of receipt of a copy of this order. The petitioner shall file written statement within a period of 15 days. The petitioner is also given liberty to file appropriate application under Order VII Rule 11 of C.P.C. or to strike off the plaint under Order VI Rule 16 of C.P.C., if advised.

9.This Civil Revision Petition stands disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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19.06.2023

To

The District Munsif-cum-Judicial Magistrate,
Alangudi.



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C.SARAVANAN, J.

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Order made in
C.R.P.(MD)No.1396 of 2023

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