



C.R.P(MD)No.1635 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.09.2023

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

C.R.P(MD)No.1635 of 2019

and

C.M.P.(MD)No.8545 of 2019

S.Jegathambal

: Petitioner/2nd Defendant

Vs.

1.P.Saravana Muthupandian

: 1st Respondent/1st Defendant

2.P.Kalimuthu

: 2nd Respondent/Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to strike off the plaint in O.S.No.160 of 2018 on the file of the District Munsif Court, Madurai.

For Petitioner : Mr.J.Jeyakumaran

For Respondents : Mr.V.S.Karthi for R1

: Mr.S.Sukumar for R2

ORDER

This Civil Revision Petition has been filed seeking orders to strike off the plaint in O.S.No.160 of 2018 on the file of the District Munsif Court, Madurai.



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2. The learned counsel for the petitioner would submit that a mortgage deed, dated 19.06.2008 was fabricated, from the stamp paper purchased on future date qua on 29.04.2018. This factum could be established through the reply received from the District Treasury, under Right to Information Act. Therefore, contended that, the very suit is liable to be struck off as the suit is the result of forgery.

3. The learned counsel for the petitioner would also submit that the very suit is abuse of process of law and liable to be strike off from the file of the Court below. It is also submitted by the learned counsel for the petitioner that only to defeat the right of the petitioner, the respondents and their siblings have created such fabricated document and attempting to thwart the right of the petitioner, which would accrue under the D.V. Act. Hence, prayed to allow the Civil Revision.

4. Per contra, the learned counsel for the respondents would submit that the document which is referred by the petitioner has to be proved before the Court below and that under the revisional jurisdiction the dispute with regard to the document can not be gone into, therefore, prayed to dismiss the petition.



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5. I have given my anxious consideration to either side submission.

6. The sum and substance of submissions of the learned counsel for the petitioner is that, the alleged mortgage deed which is the basis for the suit for injunction is the forged document, and that the mortgage deed has been fabricated from the stamp paper purchased in the year 2018 with anti date, qua dated 19.06.2008. The learned counsel for the petitioner would also invite the attention in respect of the reply from the District Treasury under Right to Information Act, vide reply, dated 27.03.2019. Wherein there is a reference that the said, Sub Registrar of Madurai South, has been bifurcated from the District Treasury, only on 29.04.2018. Therefore, contended that on the date of purchase of stamp paper, no Sub Registrar of Madurai South was exist. Through this, he submits that on the face of it, the forgery of the mortgage deed could be established. But, this Court does not want to go into the merits of the said submission.



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7. This Court is of the view that unless the Right to Information Act reply is proved by way of supporting documents and by way of examining the witnesses, this Court can not prejudice under the revisional jurisdiction. Therefore, this Court is of the view that based upon the reply of the Right to Information Act, the plaint in O.S.No.160 of 2018 cannot be strike off. Therefore, there is no merits in the Civil Revision Petition.

8. However, considering the fact that the suit is of the year 2018, this Court deems it appropriate to give direction to the Court below to dispose of the suit as expeditiously as possible.

9. In the result, the instant Civil Revision petition stands **dismissed**. Further, the Court below is directed to dispose of the suit as expeditiously as possible, preferably within a period of six months from the date of receipt of copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

20.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
das



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To

- 1.The District Munsif Court,
Madurai.
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN,J.

das

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