



C.R.P.(MD)Nos.2519, 2520 and 2521 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 11.12.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)Nos.2519, 2520 and 2521 of 2023

Dhanam	: Petitioner/Plaintiff (in CRP(MD)No.2519/2023)
A.Kannan	: Petitioner/Plaintiff (in CRP(MD)No.2520/2023)
A.Ravichandran	: Petitioner/Plaintiff (in CRP(MD)No.2521/2023)

Vs.

- 1.K.G.Pandian
- 2.The District Collector,
Madurai District,
Collectorate Buildings,
Madurai – 625 020.
- 3.The Tashildar,
Vadipatti Taluk,
Vadipatti, Madurai District.
- 4.The Head Surveyor,
Vadipatti Taluk, Vadipatti,
Madurai District.



C.R.P.(MD)Nos.2519, 2520 and 2521 of 2023

5. The Village Administrative Officer,
Kallanai Village, Alanganallur,
Vadipatti Taluk, Madurai District.

: Respondents/Defendants
(in all petitions)

Prayer in CRP(MD)No.2519/2023 : This Civil Revision Petition filed under Section 227 of C.P.C., against the return of plaint filed by the petitioner in filing SR No.130 of 2023, dated 01.08.2023 in unnumbered O.S.No.... of 2023 on the file of the District Munsif Court, Vadipatti, Madurai District.

Prayer in CRP(MD)No.2520/2023 : This Civil Revision Petition filed under Section 227 of C.P.C., against the return of plaint filed by the petitioner in filing SR No.131 of 2023, dated 01.08.2023 in unnumbered O.S.No.... of 2023 on the file of the District Munsif Court, Vadipatti, Madurai District.

Prayer in CRP(MD)No.2521/2023 : This Civil Revision Petition filed under Section 227 of C.P.C., against the return of plaint filed by the petitioner in filing SR No.117 of 2023, dated 17.07.2023 in unnumbered O.S.No.... of 2023 on the file of the District Munsif Court, Vadipatti, Madurai District..

(in all petitions)

For Petitioner : Mr.Ayyanar Prem Kumar,
for Mr.P.Murugesan.



C.R.P.(MD)Nos.2519, 2520 and 2521 of 2023

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restraining the defendants therein not to interfere illegally with their possession and enjoyment of the suit property without due process of law and for mandatory injunction, directing the first defendant to hand over all the documents including unfilled signed stamp papers, blank signed promotes and unfilled signed cheques.

4. The main contention of the plaintiffs is that the suit properties are their ancestral and joint family properties; that the plaintiffs/revision petitioners in C.R.P.(MD)Nos.2520 and 2521 of 2023, borrowed a sum of Rs.30 lakhs from the first defendant and for that, the said plaintiffs have also given blank stamp papers, unfilled pronotes and unfilled signed cheques as security; that the plaintiffs when approached the second defendant to give interest for the loan amount, the first defendant informed them that the accrued rate of interest is at 10% per month; that the plaintiffs have paid interest amount till 03.01.2013, but the first defendant had informed them to pay the balance amount with interest allegedly agreed by them; that the plaintiffs had repaid the entire loan amount of Rs.30 lakhs to the first defendant and demanded to return all the documents to the first defendant, but the first defendant had demanded



C.R.P.(MD)Nos.2519, 2520 and 2521 of 2023

another sum of Rs.30 lakhs; that the first defendant along with rowdy elements had threatened and coerced the plaintiffs to execute the nominal sale deeds in respect of the suit property and on that basis, three sale deeds were taken from the said plaintiffs and the same are only sham and nominal and the same does not create any title to the first defendant.

5. It is the further case of the plaintiff that subsequently, they came to know that the first defendant has mortgaged seven items of the properties with ICICI Bank and obtained loan of Rs.5 Crores; that the plaintiffs have been in possession and enjoyment of the suit properties; that the plaintiffs have then lodged a complaint before the Police, but no action was taken; that meanwhile the first defendant has filed a writ petition in W.P.(MD)No.10210 of 2023, claiming writ of mandamus, directing the respondents 3 to 5 therein to survey and fix the boundaries therein and only thereafter, the plaintiffs have come to know about the illegal activities of the first defendant and that therefore, they were constrained to file the above suits.

6. As rightly contended by the learned counsel for the petitioners, the impugned returns made by the learned District Munsif raising queries



C.R.P.(MD)Nos.2519, 2520 and 2521 of 2023

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as to “how the suits are maintainable, when the writ petition for the very same relief is pending,” is not proper. But at the same time, a cursory perusal of the complaints would reveal that the very framing of the suit and the *locus standi* of the mother challenging the alleged sale deeds, when the suit property is ancestral in character and the sale deeds were executed by her sons, appears to be doubtful.

7. Even according to the plaintiffs, the first defendant has mortgaged some of the suit properties and obtained a sum of Rs.5 Crores from ICICI Bank and that the mortgage executed by the first defendant in favour of the ICICI Bank in respect of the suit second schedule properties is not valid in law.

8. Considering the above, it also appears that bar under Section 34 of the SARFAESI Act is applicable. But this Court is restraining itself, not to express any view or opinion and it is for the concerned Court to look into those aspects and decide.



C.R.P.(MD)Nos.2519, 2520 and 2521 of 2023

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9. Considering the above, the impugned returns made on 01.08.2023 and 17.07.2023 are set aside. The learned District Munsif is directed to go through the complaints and on being satisfied, is directed to take the complaints on file.

10. With the above observation and directions, the Civil Revision Petitions are disposed of. No costs.

11.12.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
das

Note : The Registry is directed to return the original petition, filed along with this revision to the counsel for the revision petitioner, retaining a copy of the same.

To

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



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C.R.P.(MD)Nos.2519, 2520 and 2521 of 2023

K.MURALI SHANKAR,J.

das

C.R.P.(MD)Nos.2519, 2520 and 2521 of 2023

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