



WEB COPY



C.R.P(MD).No.88 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P(MD).No.88 of 2023

and

CMP(MD)No.427 of 2023

Muthulakshmanan

... Petitioner/Defendant

Vs.

1.Nagarathinam

2.Karuppaiah

3.Praveena

4.Sakthivelrajprabu

... Respondents 1 to 4/Plaintiffs 1 to 4

5.The Sub Registrar,

Singampunari Sub-Registrar Office,

Singampunari Taluk,

Singampunari.

... 5th Respondent/2nd Defendant

PRAYER:- This Civil Revision Petition has been filed under Article 227 of the Constitution of India, to strike the plaint in O.S.No.67 of 2022, pending on the file of the learned District Munsif, Singampunari.

For petitioner : Mr.G.Talaimutharasu

ORDER

This petition has been filed to strike the plaint in O.S.No.67 of 2022, pending on the file of the learned District Munsif, Singampunari.



C.R.P(MD).No.88 of 2023

2.The suit has been filed by the respondents 1 to 4 for a bare injunction to restrain the petitioner and the 5th respondent herein. The suit is based on an unregistered sale agreement dated 26.06.2002 by the petitioner in favour of the first plaintiff/first respondent herein and the father of the other plaintiffs/respondents 2 to 4.

3.The specific case of the petitioner is that the property was not sold to the Late.Balakrishnan and the alleged sale agreement dated 26.06.2002 was not a sale deed but an unregistered sale agreement fabricated by the said Late.Balakrishnan. It is further submitted that no copy of the document was filed at the time of presentation of the suit. It is further submitted that the petitioner has settled the property in favour of his son namely, Balaji on 29.09.2014. It is further submitted that a suit filed for a bare injunction based on an unregistered sale agreement is nothing but an abuse of the Court proceedings and therefore, the plaint is liable to be struck-off.

4.I have considered the argument advanced by the learned counsel for the petitioner/defendant in O.S.No.67 of 2022, which is pending on the file of the District Munsif Court of Singampunari.



C.R.P(MD).No.88 of 2023

5.No doubt powers of Court is much wider than Article 227 of the Constitution of India. Nevertheless the petitioner cannot be scuttle the suit filed by the respondents based on the aforesaid unregistered sale agreement dated 26.06.2002. In case, the petitioner has a case, it is always open to the petitioner to file an appropriate application under Order VII Rule 11 of CPC to reject the plaint. In alternative, the petitioner has an option to request the Court to frame a preliminary issues based on the averments made in the written statement to be filed by the petitioner. The plaint cannot be struck off based on the unsubstantiated allegations under Article 227 of the Constitution of India. Therefore, this Civil Revision Petition is liable to be dismissed. It is accordingly, dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

03.04.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
dss

To

1.The District Munsif,
Singampunari.

2.The Record Keeper,
V.R Section,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



C.R.P(MD).No.88 of 2023

C.SARAVANAN,J.

dss

C.R.P(MD).No.88 of 2023
and
CMP(MD)No.427 of 2023

03.04.2023