



CRP(MD).NO.67 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2023

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

CRP(MD).No.67 of 2023

and

C.M.P(MD).No.330 of 2023

D.Senthil

... Petitioner/Petitioner/Defendant

Vs.

1.A.Kathirvelu

2.K.Ramesh

... Respondents/Respondents/Plaintiffs

PRAYER : Revision Petition filed under Section 115 of the Code of Civil Procedure, to set aside the fair and decreetal order dated 14.09.2022 made in I.A.No.02 of 2022 in O.S.No.242 of 2021 on the file of the Principal District Court, Karur.

For Petitioner : Mr.V.Meenakshisundram

ORDER

The present revision petition has been filed by the defendant in O.S.No.242 of 2021 pending on the file of the Principal District Court, Karur challenging the dismissal of the application in I.A.No.02 of 2022 under Order 7 Rule 11 of the Code of Civil Procedure.



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2. According to the defendant, he is the lessee of the suit schedule property and the plaintiffs are said to have purchased the property under a sale deed dated 24.01.2019. The said sale deed is under challenge in O.S.No.235 of 2020 pending on the file of the same Court.

3. The learned counsel for the petitioner has further contended that when the title of the plaintiffs in the present suit has not crystallized and the same is in dispute, the present suit for declaration of title is not maintainable. Further, the learned counsel for the petitioner has contended that the petitioner being a tenant of a building, the present suit for recovery of possession is not maintainable. The only option open to the plaintiffs is to approach the Rent Control Court.

4. The learned counsel for the petitioner has further contended that the plaintiffs have prayed for damages from the petitioner up to the date of purchase namely 24.01.2019. The plaintiffs cannot pray for damages for the period before his purchase, unless there is a specific clause in the sale deed. According to the petitioner, this prayer is also not maintainable in view of the fact that there is no such clause in the



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sale deed.

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5. In view of the aforesaid fact, the petitioner had filed I.A.No. 02 of 2022 for rejection of the plaint. However, the learned Principal District Judge, Karur, had dismissed the application holding that all these grounds are a matter of trial and the same cannot be adjudicated in Order 7 Rule 11 of the Code of Civil Procedure. The said order is under challenge in the present revision petition.

6. I have perused the order passed by the learned Principal District Judge, Karur, in I.A.No.02 of 2022. The grounds raised by the revision petitioner are clearly falling outside the scope of Order 7 Rule 11 of the Code of Civil Procedure and they are triable issues, which require adjudication. Hence, they do not fall within the parameters of Order 7 Rule 11 of the Code of Civil Procedure so as to reject the plaint. However, it could be seen that the plaintiffs in the present suit are the defendants 2 and 3 in O.S.No.235 of 2020, where their title is under challenge. Hence, in the interest of justice, both the suits should be tagged together and joint trial shall be conducted. The petitioner is at liberty to file an application for the same and as and when such



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application is filed, the same shall be decided on merits and in accordance with law.

7. With the aforesaid observations, the Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

13.02.2023

Index : Yes / No
Internet : Yes / No
Rmk

To
1. The Principal District Judge, Karur.

R.VIJAYAKUMAR ,J.,



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Rmk

Order made in
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Dated:
13.02.2023