



C.R.P.No.162 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.162 of 2021 and
C.M.P.No.1519 of 2021

1.A.V.Arjunan
2.P.Ramasamy
3.P.Jeganathan

... Petitioners

Vs.

1.Anuradha
2.Sundaramoorthy
3.R.Mayilsamy
4.K.M.Sivakumar
5.K.Ponnusamy
6.R.Balasubramaniam
7.A.Marudhachalam
8.The Sub-Registrar
Avinashi,
Tiruppur District.

9.The Head Quarters Tahsildar,
Tiruppur North,
Tiruppur District.

...Respondents

PRAYER: Civil Revision Petition filed Article 227 of Constitution of India, praying to strike off the plaint in O.S.No.260 of 2020 on the file of District Munsif Court at Tiruppur filed by the respondents 1 and 2.



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For Petitioner : M/s.K.Myilsamy
For respondents 1 to 4 : No appearance
For respondent 5 : Died
For respondents 8 & 9 : Mr.Jeeva Giridharan
Additional Government Pleader

ORDER

The Civil Revision Petition is filed seeking to strike off the plaint filed by the 1st and 2nd respondents.

2. The 1st and 2nd respondents filed a suit for declaration that registered sale deed dated 20.03.2009 executed by 3rd petitioner and respondents 3 to 7 in favour of petitioners 1 and 2 was null and void and for consequential injunction restraining the petitioners 1 and 2 from claiming any right over the suit property or encumbering the suit property.

3. The learned counsel for the petitioners vehemently contended that suit properties originally belonged to father and mother of respondents 1 and 2 and the same was declared as surplus land under Urban Land Ceiling Act. The



suit properties were assigned by the competent authorities in favour of 3rd petitioner and respondents 3 to 7. The said proceedings were challenged by petitioners in writ petition and the same was dismissed. The order passed in writ petition was confirmed in the writ appeal and subsequently, by order in SLP.No.197 of 2015. Thus, the assignment made in favour of 3rd petitioner and respondents 3 to 7 had attained finality. Thereafter, the 1st and 2nd respondents, in order to re-litigate, filed instant suit in respect of the very same property by challenging the sale executed by original assignees in favour of petitioners 1 and 2.

4. When the counsel for the petitioner was directed to demonstrate that the property which was subject matter of litigation before the authorities constituted under Urban Land Ceiling Act and the suit properties are one and the same, he is unable to show that the properties which were subject matter of proceedings before the authorities under Urban Land Ceiling Act and the present suit properties are one and the same. From the order passed by the Land Commissioner dated 09.08.2004 which is enclosed in the typed set of papers, this Court is not in a position to come to a conclusion that the subject



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matter of the suit as well as subject matter of the proceedings before Land Commissioner are one and the same. In such circumstances, when it is not shown the present suit is filed only in respect of the property which was subject matter of dispute in the proceedings before Urban Land Ceiling Authorities, this Court is unable to exercise its power under Article 227 of Constitution of India to strike off the plaint. Hence, the Civil Revision Petition stands dismissed.

5. It is open to the petitioner to file written statement and raise all the points raised in this revision as a defense. It is for him to lead evidence to show subject matter of proceedings before Urban Land Ceiling Authorities and the present suit are one and the same. It is always open to the petitioner to file appropriate application for rejection of the plaint, if so advised. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
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The learned District Munsif Judge, Tiruppur



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S.SOUNTHAR, J.

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