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C.R.P.(PD).No.1546 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.1546 of 2021
and C.M.P.No.12133 of 2021

Beach Estates

Rep by its partner, L.Shantha kumar,
23/1, Thilak street,
T.Nagar,
Chennai-600017.

... Petitioner

VS

1.M/s.Likhami Holdings Ltd.,
Rep by its Director L.R.Sivaprasad
Having its registered office at
No.7, 4th floor, L V R Centre,
Seshadri Road, Alwarpet,
Chennai-600018.

2.Krishna Kalavathi

3.Sirley Sukumar

4.Sumitra Kumari Singh

5.Sri Nemichand Jain

6.Gita J Vyas



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7.Khusaroo Fadidun Kapadia

8.Rupa Lawrence

9.Kiran Jhunjhunwala

10.Rattan Kumar Khemka

11.Munish Kumar Khemka

12.Nirmal Kumar Khemka

13.M/s.Braham Ispat P. Ltd.,
Represented by its Director
Mr.Naresh Choudhary,
No.304, Abhay Streel House,
59-E, Baroda Street, Carnac Bunder,
Mumbai-400009.

14.Biharilal Jamadas Lulla

15.Kamala B.Lulla

16.Deepak Kumar K.Jogani

17.Kamalesh V.Mehta

18.Nilesh V.Mehta

19.A.Ponniah

20.N.Umashankar

21.S.Rajkumar

22.Ami Thakker

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23.G.Dileep Kumar

24.K.R.Keshab Chander

25.Khushwant Kumar Bafna

26.Kunal Kumar Bafna

27.Jungal K.Reheja

28.Ajay K.Raheja

29.Rajendra Mehta

30.Bandana Naharoy

31.Gita J. Vyas

32.Savitri Bai

33.Leena Shashi

34.Sashi Kumar Nair

35.M/s.Innovation Medi Equip Ltd.
Represented by its Managing Director
Mr.L.Prakash, 290,
Sidco Industrial Estate,
Ambattur,
Chennai-600098.

... Respondents



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Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to strike off the suit filed by the 1st respondent herein in O.S.No.87 of 2019 on the file of the Principal District Court, Chengalpattu.

For Petitioner : Mr.K.Rajasekaran

For R1 : Mr.R.Kumar

For R2, R3, R5, R7, R10,
R11, R12, R16, R17,
R18, R21, R23, R25,
R26, R27, R28, R33 and
R34 : No Appearance

For R4 and R9 : Door Locked

For R6, R9, R31 and R32: No Such Person

For R8 : Gone out

For R13 and R30 : Not Known

For R20 : No Such Door No.

For R22 : Settled Abroad

For R24 : No Such Address

For R35 : Left

For R14, R15 and R29 : Vacated



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ORDER

The Civil Revision Petition is filed seeking to strike off the plaint in O.S.No.87 of 2019 on the file of the Principal District Court, Chengalpattu filed by the 1st respondent.

2. The 1st respondent herein filed a suit in O.S.No.87 of 2019 on the file of the Principal District Court, Chengalpattu seeking declaration that the property of the 1st respondent/plaintiff described in suit schedule is situated in S.No.168/3E/1A/1A/1A within the gated community layout 'Sand Avenue', Pattipulam Village, East Coast Road, Chengalpattu and for a direction to petitioner to handover vacant possession of the same to the 1st respondent.

3. The present civil revision petition has been filed by the petitioner mainly on the ground that earlier the petitioner filed a suit for permanent injunction in O.S.No.252 of 1995 on the file of the Subordinate Court, Chengalpattu in respect of 6 acres 95 cents of land situated in S.No.168/3E/1A/1A/1C/2A in Pattipulam Village, Chengalpattu Taluk and obtained a decree for permanent injunction. The said decree was confirmed by this Court in second appeal in S.A.No.510 of 2006. It is stated by the



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petitioner that subject matter of the earlier suit in O.S.No.252 of 1995 and the 'Sand Avenue' mentioned in the present prayer are one and the same and the 1st respondent, who had taken a definite stand in the earlier proceedings that its property was situated in different survey number cannot turnaround and seek a declaration, as if, its property is situated within the layout 'Sand Avenue' belongs to the petitioner.

4. It is true the petitioner herein obtained a decree for permanent injunction against the 1st respondent in O.S.No.252 of 1995 in respect of 6 acres 95 cents of land situated in S.No.168/3E/1A/1A/1C/2A in Pattipulam Village, Chengalpattu Taluk. Now, the 1st respondent seeks a declaration that its property situated in different survey number comes within the layout 'Sand Avenue'. It is the case of the petitioner that layout 'Sand Avenue' and the suit property in its earlier suit in O.S.No.252 of 1995 are one and the same. Therefore, the present litigation is nothing but a re-litigation by coining a novel prayer.

5. Whether the layout mentioned in the present suit namely 'Sand



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Avenue' and the subject matter of the earlier suit, which was described by its survey number are one and the same is a disputed question of fact. Likewise, whether the present suit survey number 168/3E/1A/1A/1A is situated within layout "Sand Avenue" is a question of fact, which requires evidence. Therefore, this Court while exercising jurisdiction under Article 227 of the Constitution of India cannot decide that question and strike off the plaint.

6. In such circumstances, this Court is not inclined to entertain the present revision filed by the petitioner and consequently, the same is dismissed. Having regard to the fact that the suit filed by the 1st respondent is of the year 2019, the Trial Court is directed to dispose of the suit as expeditiously as possible. No costs. Consequently, the connected civil miscellaneous petition is closed.

13.02.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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S.SOUNTHAR, J.

dm

To

1.The Principal District Court,
Chengalpattu.

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