



C.R.P.No.2558 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

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Rajaraman

... Petitioner

-Vs-

1.Srinivasan
2.Selvaraj
3.Subburayan
4.Venkatesan

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India against the order and decretal order in IA No.582 of 2023 in OS No.128 of 2023 on the file of the I Additional District Munsif Court, Thirukoilur dated 22.12.2023 is unjust, illegal and in any event liable to be set aside.

For Petitioner : Ms.R.Poornima

ORDER

This civil revision petition is against the order dated 22.12.2023 in IA No.582 of 2023 in OS No.128 of 2023 on the file of the I Additional District Munsif Court, Thirukoilur.

2. The Civil Revision Petitioner is the third defendant in O.S.No.128 of 2023.

The case of the plaintiffs is that without service of summons in O.S.No.163 of 2005,



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the civil revision petitioner obtained a decree on 25.10.2005. Consequently, they filed a suit for declaration that the decree passed in O.S.No.163 of 2005 dated 25.10.2005 is null and void. Apart from that, the plaintiffs have also sought for declaration of title as primary relief.

3. On being served with summons, the defendants have filed a written statement stating that there is no cause of action for the suit.

4. Curiously enough, in a rejection of plaint application, the learned District Munsif has permitted the parties to file documents. It is a settled position that when an application for rejection of plaint is entertained, the averments made in the plaint alone are necessary. The court below should have gone through the plaint alone and not referred to the defence that has been raised by the defendants.

5. A reading of the plaint shows that the specific plea of the respondents / plaintiffs is that summons were not served on them. If summons are not served and a decree is passed, it is obviously binding on a party. Whether the summons were served, whether the ex parte decree was passed in accordance with law and if at all, the civil revision petitioner has taken delivery of the property in terms of the decree so passed are all matters to be gone into only after a detailed trial. A reading of the plaint discloses cause of action and therefore it does not come within



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the teeth of Order VII Rule 11(a) of the Code of Civil Procedure. The learned I Additional District Munsif, Tirukoilur has given cogent reasons for the same. I have no reason to interfere with the same. The civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.07.2024

Index : Yes/No

Neutral Citation : Yes/No

KST

To

The I Additional District Munsif (Civil Judge)
Junior Division, Tirukoilur.



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V. LAKSHMINARAYANAN, J.

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