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C.R.P.(PD).No.2161 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(NPD).No.2161 of 2021
and C.M.P.No.16393 of 2021

A.Gunasekaran

... Petitioner

VS

1.Kamsala

2.Lakshmikanthan

3.Rajesh

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to strike off the plaint in O.S.No.376 of 2019 on the file of the learned 1st Additional Subordinate Judge, Cuddalore.

For Petitioner : Mr.N.Suresh

For Respondents : Mr.R.Gururaj

ORDER

The Civil Revision Petition is filed seeking to strike off the plaint in O.S.No.376 of 2019 on the file of the learned 1st Additional Subordinate Judge, Cuddalore.

2. The respondents herein filed a suit seeking permanent injunction



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restraining the petitioner herein from interfering with their peaceful possession and enjoyment of the Suit 'A', 'B' and 'C' Schedule Properties. It was stated by the respondents in the plaint that Suit 'A' and 'B' schedule properties were owned by them under Sale Deeds dated 10.05.1985 and 13.05.1987 and Suit 'C' schedule properties was under the possession of cultivating tenant.

3. The petitioner/defendant filed the revision petition seeking to strike off the plaint on the ground that the husband of the 1st respondent and father of the respondents 2 and 3 earlier filed a suit in O.S.No.10 of 2000 on the file of the Sub Court, Panruti for specific performance of the Sale Agreement in respect of Suit 'C' schedule properties. The said suit was transferred to the file of District Munsif Court, Panruti and renumbered as O.S.No.302 of 2004 and the same was dismissed. Further, it was also claimed by the petitioner that husband of the 1st respondent and father of the respondents 2 and 3, namely Singaram filed another suit for permanent injunction in respect of the suit 'C' schedule property in O.S.No.108 of 2006 and the same was also dismissed.

4. It is seen from the averments found in the plaint that earlier suits



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were filed by said Singaram claiming possession under the Sale Agreement with the petitioners. In the present suit, the respondents are claiming themselves as cultivating tenants under the petitioner. It was also claimed filed by the respondents that tenancy agreement between them and petitioner was oral one. The petitioner was not party to the earlier litigation. In these circumstances, whether the respondents are in possession of the suit properties under the tenancy agreement with the petitioner is a matter to be decided based on evidence. Therefore, the petitioner has to face the trial in the suit and he is not entitled to invoke the supervisory jurisdiction of this Court under Article 227 of the Constitution of India for striking off the plaint.

5. Accordingly, the Civil Revision Petition is dismissed with liberty to the petitioner to raise all his objections before the Court below. No costs. Consequently, the connected civil miscellaneous petition is closed.

18.01.2024

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

dm

To

The 1st Additional Subordinate Judge,
Cuddalore.

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