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CRP.No.2235 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.04.2023

DELIVERED ON : 28.02.2024

CORAM

THE HONOURABLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

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S.Jayaprakash : Petitioner/Petitioner/Plaintiff

Vs.

Kovai Mavatta Kulalar Mandram

Represented by its Vice President

Mr.M.Rajagopal : Respondent/Respondent/7th Defendant

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal Order dated 28.08.2020 made in I.A.No.769 of 2017 in O.S.No.855 of 2011 on the file of the IV Additional District Munsif Court, Coimbatore.

For Petitioner : Mr.M.Guruprasad

For Respondent : Mr.C.Prakasam

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal Order dated 28.08.2020 made in I.A.No.769 of 2017 in O.S.No.855 of 2011 on the file of the learned IV Additional District



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2. The learned Counsel for the Revision Petitioner submitted that the Revision Petitioner is the Plaintiff in O.S.No.855/2011. He had filed I.A.No.769/2017 in O.S.No.855/2011 under Order XI Rules 14 and 16 r/w. 151 of Civil Procedure Code directing the seventh Defendant to furnish by-laws of the Kovai Mavatta Kulalar Mandram/Society and also the Registration copy of the said Mandram. The seventh Defendant as Respondent in I.A.No.769/2017 vehemently objected to the same as Petitioner in I.A.No.769/2017 is not a member of the seventh Defendant Society and there is no dispute between him and other Office bearers of the seventh Defendant/Society. The same is not relevant to the facts in dispute between the Plaintiff and the seventh Defendant in O.S.No.855/2011. Therefore, the Petition filed by the Plaintiff in I.A.No.769/2017 is not maintainable and is to be dismissed. After due enquiry, the learned IV Additional District Munsif, Coimbatore by Order dated 28.08.2020 dismissed the I.A.No.769/2017 in O.S.No.855/2011. Aggrieved by the same, the Plaintiff in O.S.No.855/2011 had filed this Revision Petition under Article 227 of Constitution of India seeking to set aside the dismissal Order of the learned IV Additional District Munsif, Coimbatore in I.A.No.769/2017 in O.S.No.855/2011, dated 28.08.2020.



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3.It is the submission of the learned Counsel for the Revision Petitioner that the Revision Petitioner/Plaintiff had filed the Suit seeking to declare that the sale deed dated 10.04.2002 executed by the fifth Defendant in favour of seventh Defendant/Society which was registered under Document No.1453/2002 on the file of the Sub Registrar of Ganapathy, Coimbatore on 07.06.2002 is invalid, illegal, improper and *void ab initio* as it is a fraudulent one. Also, seeking declaration that the Building Licence dated 03.06.2010 issued by the second Defendant in the Suit in favour of the sixth Defendant (District Kulalar Mandram) is invalid, illegal, improper and *void ab initio* as it is based on the fraudulent Title Deed dated 10.04.2002 registered as Document No.1453/2002 on 07.06.2002 before the Sub Registrar, Ganapathy, Coimbatore. Also, seeking consequential mandatory injunction directing the sixth Defendant (District Kulalar Mandram) to remove illegal construction made over the portion of the Item No.1 of the Suit Schedule property based on the Building Licence dated 03.06.2010 issued by the second Defendant in the Suit in favour of the sixth Defendant (District Kulalar Mandram).

4. In the scheduled property, Item No.1 is a common lane within the local limits of Coimbatore Corporation running North to South which is



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Southern end at East to West Thiyaagi Kumaran Street, situated at Ward

No.T-20, Block No.19 T.S.No.48, Old Survey No.280/Part, 51, Ganapathy,

Thiyaagi Kumaran Street, Coimbatore. Item-2 is the property purchased by the Plaintiff and Item No.3 is the property which is claimed by the Plaintiff as encroached on the portion of Item No.1 of the property. It is the contention of the learned Counsel for the Revision Petitioner that the Respondent herein had impleaded himself as seventh Defendant in the Suit. Therefore, the Plaintiff was forced to amend the Plaint by including the seventh Defendant. Therefore, the Petitioner is forced to file this Petition to know the legal entity and legal status of Kovai Mavatta Kulalar Mandram/seventh Defendant and whether the seventh Defendant has any legal right to defend the Suit. Therefore, the Petition had been filed. The learned IV Additional District Munsif, Coimbatore by Order dated 28.08.2020 had dismissed the Petition which is perverse and is to be set aside. Therefore, the learned Counsel for the Revision Petitioner seeks to set aside the dismissal Order passed by the learned IV Additional District Munsif, Coimbatore in I.A.No.769/2017 in O.S.No.855/2011, dated 28.08.2020.



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5. The learned Counsel for the Respondent submitted that the seventh Defendant in the Suit is a registered Society under the Society Registration Act. There is no dispute between the Plaintiff and the seventh Defendant regarding the administration of the seventh Defendant/Society by the duly elected Office bearers of the Society/Kovai Mavatta Kulalar Mandram. The Plaintiff is not a member of the said Kovai Mavatta Kulalar Mandram. Therefore, he cannot seek by-laws and registration copy to know the legal status. Further, the learned Counsel for the Respondent submitted that the Plaint averment does not indicate the Plaintiff as a member of Kovai Mavatta Kulalar Mandram. As per the Plaint averments, it is a case of the seventh Defendant having purchased the property and constructed a building after obtaining the prior permission from the second Defendant in the Suit. When he attempted to put up construction, the Plaintiff had resisted the same. Therefore, the Petitioner herein had filed the Suit seeking the sale deed in favour of the seventh Defendant as null and void *ab initio*. Also, seeking declaration that the building permission granted by the second Defendant in the Suit in favour of the seventh Defendant as null and void. The subject matter of the Plaint averment does not indicate any dispute between the Members of the Kovai Mavatta Kulalar Mandram. Therefore, the attempt of Plaintiff



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in O.S.No.855/2011 seeking to obtain the Registration Certificate and by-

laws of the seventh Defendant in the Suit is unwarranted and irrelevant.

The learned IV Additional District Munsif, Coimbatore had passed a well-reasoned Order which does not warrant any interference by exercising power under Article 227 of Constitution of India.

6. Point for Consideration

Whether the Order passed by the learned IV Additional District Munsif, Coimbatore dismissing the I.A.No.769/2017 in O.S.No.855/2011, dated 28.08.2020 is to be set aside as perverse?

7. Heard the learned Counsel for the Petitioner and the learned Counsel for the Respondent and perused the Order passed by the learned IV Additional District Munsif, Coimbatore.

8. On perusal of the Complaint averments, written statement filed by the seventh Defendant and the affidavit filed by the Plaintiff as Petitioner, Counter filed by the seventh Defendant as Respondent and the Order passed by the learned IV Additional District Munsif, Coimbatore, it is found that as rightly pointed out by the learned Counsel for the Respondent/seventh Defendant in O.S.No.855/2011, the dispute is not

with regard to the activities or administration of Kovai Mavatta Kulalar



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Mandram. It is a case of the seventh Defendant in the Suit having purchased the property adjoining the common pathway after obtaining building permission from the second Defendant had attempted to put up construction in the common pathway. The Plaintiff is not a member of Kovai Mavatta Kulalar Mandram, as per the Plaint averments. While so, the Respondent herein/seventh Defendant filed I.A.No.131/2017 seeking to implead the seventh Defendant as necessary party to the Suit. The Plaintiff having been forced to amend the Plaint, had sought the status of the seventh Defendant and by-laws of the seventh Defendant.

9.During the course of enquiry before this Court in this Civil Revision Petition, the Respondent was directed to furnish the copy of the Registration Certificate of the seventh Defendant/Society. Accordingly, the learned Counsel for the Respondent furnished the status of the seventh Defendant as a registered Society under the Tamil Nadu Societies Registration Act, 1975 (TN Act 27/1975) bearing Registration No.203 of 2013. Therefore, as pointed out by the learned Counsel for the Respondent, the Petitioner could have obtained it from the Registration Department by filing appropriate Petition seeking details of registration and copy of by-laws of association. Instead he had filed the Petition. Not



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only that, he had not filed Petition along with the required Form, seeking

notice to any party to produce any document shall be in Form-VII

Appendix C. The learned IV Additional District Munsif accepting the reason for objecting the Petition filed by the seventh Defendant had rightly dismissed the Petition as not maintainable. The Order passed by the learned IV Additional District Munsif Coimbatore in I.A.No.769/2017 in O.S.No.855/2011, dated 28.08.2020 is found reasonable in the light of the Order XI Rules 14 and 16 r/w. 151 of Civil Procedure Code and in the light of the averments in the Plaint. Since there were averments regarding purchase of property, Kovai Mavatta Kulalar Mandram had impleaded themselves as seventh Defendant. Just because, the Plaintiff was forced to amend the cause title by impleading the seventh Defendant as necessary party, he cannot seek details regarding the by-laws of the said Society as Plaintiff is in no way connected or affected by the administration of the said Kovai Mavatta Kulalar Mandram by its Office bearers. The dispute is with regard to the encroachment of common pathway by purchaser of the property which happens to be the property of the seventh Defendant. The seventh Defendant is the legal entity. Therefore, they had sought to implead themselves as a proper and necessary party. After having impleaded them on their application, the Plaintiff only to cause harassment



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had filed this Petition seeking details. He could have sought details by applying the Petition with the Registration Department regarding the same.

Be that as it may, the Order passed by the learned IV Additional District Munsif is found to be well reasoned Order in the light of the Plaint averments. Therefore, there is no reason to interfere by this Court exercising power under Article 227 of Constitution of India.

10. In the light of the above discussions, point for consideration is answered in favour of the Respondent and against the petitioner. The Order passed by the learned IV Additional District Munsif Coimbatore in I.A.No.769/2017 in O.S.No.855/2011, dated 28.08.2020 is not perverse.

In the result, this ***Civil Revision Petition is dismissed.*** The Order passed by the learned IV Additional District Munsif Coimbatore in I.A.No.769/2017 in O.S.No.855/2011, dated 28.08.2020 is confirmed.

28.02.2024

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-speaking Order

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To
The IV Additional District Munsif,
Coimbatore.



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SATHI KUMAR SUKUMARA KURUP, J.

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Order made in

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