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C.R.P.No.2745 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2024

CORAM:

THE HONOURABLE Mr.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.2745 of 2023
and CMP.No.16924 of 2023

Kala

... Petitioner

Vs

1.Shankar

2.A.Basker alias Pragalanadane

... Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the judgment dated 11.03.2021 passed in C.M.A.No.8 of 2019 by the Principal Sub Judge, Puducherry in confirming the order passed in I.A.No.1567 of 2019 in O.S.No.2460 of 2019 dated 13.11.2019 by the Principal District Munsif, Puducherry, and to allow this revision.

For Petitioner : Mr.S.Thiruvengadam
For Respondents : Ms.G.Lavanya
for Mr.T.Sai Krishnan for R1
R2 - No Representation

ORDER

This civil revision petition arises against the concurrent findings of the Courts below.



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2. The plaintiff is the revision petitioner and the defendants are the respondents herein. The suit in O.S.No.2460 of 2019 on the file of Principal District Munsif Court, Pondicherry is laid for permanent injunction. The plaintiff claimed to have purchased a property on 28.08.2019 and within two months from the date of purchase, she has presented the suit on 21.10.2019, when she faced obstruction to his enjoyment of property from the first defendant. The claim of the plaintiff is that the plaintiff's vendor had been in possession and occupation of the property after his purchase on 11.06.1999 and prior to the purchase by the plaintiff's vendor, his predecessor in title had been cultivating the lands, and had been enjoying the same.

3. Per contra, it is the case of the first defendant that he had purchased the property on 17.12.1998 through the Power of Attorney of his vendors, the second defendant, and had been in possession of the property ever since the date of purchase.

4. It is not in dispute on either side that the property is a vacant land of 2304 sq.ft. The position of law with respect to vacant land is, the possession always follow title. The defendants have not only denied the title of the



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plaintiff, but have also set up title in themselves. Therefore, it is necessary for the plaintiff to amend the plaint and seek for declaration of title, as the plaint as it stands today, is a suit only for bare injunction. The triple test required are whether a *prima facie* case is made, and once that is proved, to look into the balance of convenience; and thereafter irreparable injury.

5. The Courts below have concurrently come to the conclusion that *prima facie* case has not been proved. Unless and until I find the findings of the Courts below perverse, it is not possible for me to warrant an interference under Article 227. Therefore, granting liberty to the plaintiff to amend the plaint, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

03.06.2024

Index:Yes/No
Speaking order / Non-speaking order
ds



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V.LAKSHMINARAYANAN,J.

ds

To:

- 1.The Subordinate Judge
Puducherry.
- 2.The Principal District Munsif
Puducherry.
- 3.The Section Officer
VR Section
High Court, Madras.

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