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C.R.P.No.652 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.02.2024

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.No.652 of 2022

and

C.M.P.No.3347 of 2022

1. M.Mohammed Rafi
S/o M.Majith Basha

2. S.Mohideen
S/o Shan Basha

3. P.Mohan
S/o Pandurangan

4. R.Saravanan,
S/o Rajendiran

5. R.Sankar Ganesh
S/o Seshachalam

.. Petitioners

vs.

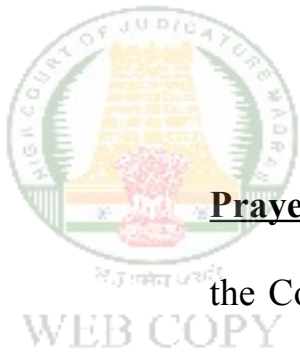
1. V.Tamilarasi,
W/o Viswanathan

2. G.Subramanian,
S/o Gopal

3. G.Dhanchezhian

4. T.Thulasi Mani @ Christino Lindo
W/o Tamizh Mani

... Respondents



Prayer in CRP : The Civil Revision Petition filed under Article 227 of the Constitution of India to strike off the plaint in O.S.NO.412 of 2019 pending on the file of the Sub-Court, Cheyyar.

For Petitioner : Mr.Avinash Wadhwani
for Mr.J.Maikandan

For Respondents : Ms.V.Divyaabharathi for r1 to R3
Ms.Shruti Thilak for R4

ORDER

This Civil Revision Petition has been filed to strike off the plaint in O.S.No.412 of 2019 pending on the file of the Sub-Court, Cheyyar.

2. The case of the petitioners is that the respondents 1 to 3 are the siblings and the 4th respondent/Thulasi Mani @ Christino Lindo is the wife of Tamizh Mani, who is none other than the brother of the respondents 1 to 3. The 4th respondent is the sister-in-law of the respondents 1 to 3. The father/Mr.Gopal of respondents 1 to 3 and father-in-law of the 4th respondent had deceased intestate during the year 1970 and the wife of Mr.Gopal predeceased her husband. The petitioners purchased the property from the 4th respondent for a valuable sale consideration on 10.06.2019 under a registered sale deed and are in absolute possession and enjoyment of the same and carrying on business. Subsequent to the purchase of the petitioners, the 4th respondent/ vendor



muted all the revenue records and other documents in her name and was carrying on bricklin business. The respondents 1 to 3 have filed the vexation suit as if they have provided sale consideration for the purchase of the suit property and that the plaint is filed without any ground or cause of action. Hence, the present civil revision petition to strike off the plaint.

3. Learned counsel for the petitioners would submit that their vendor Thulasimani @ Christino Lindo/4th respondent is the absolute owner of the suit properties having purchased the same from Mr.A.S.Gopu during the year 2005 by way of registered sale deed dated 14.07.2005. Only after scrutinizing the property documents and parent documents, the petitioners have purchased the suit schedule mentioned properties from the 4th respondent. However, subsequent to purchase, the 4th respondent muted all the revenue records and other documents in her name and carrying on business. He would further submit that the suit is hit by section 4 of Prohibition of Benami Transactions Act, 1988. The suit is filed without any cause of action and the same is vexatious and devoid of merits and not maintainable in law. In support of his contention, the learned counsel for the petitioners relied on the decision of this Court made in *2018 SCC OnLine Mad 6311 (C.R.P.(MD) No.2230*



of 2017 dated 29.08.2018 in *P.Amalanathan and Ors. v. Jarina Begam*).

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4. The learned counsel for the respondents would state that the trial has commenced and the petitioners have not raised any plea with regard to the benami transaction and they have also not filed any application for rejection of the plaint.

5. Heard the learned counsel for the petitioners and the learned counsel appearing for the respondents and perused the materials available on record.

6. It is seen from the records that the petitioners herein have not filed any application before the trial court seeking for rejection of the plaint or to struck off the plaint. In the above decision viz., *2018 SCC OnLine Mad 6311*, relied on by the learned counsel for the petitioners, the petitioners therein have filed application before the trial Court to struck off the plaint which was dismissed and only against the dismissal of the said application, the petitioners therein have filed the civil revision petition. It is also brought to the notice of this Court by the learned counsel for the respondents that trial has commenced in the suit and the petitioners herein have not raised any plea with regard to the benami transaction. Therefore, at this point of time, this Court is not inclined to entertain this civil revision petition. The petitioners can raise



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all the grounds made herein before the trial Court.

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7. The Civil Revision Petition is dismissed. However, the trial court shall proceed with the trial without being influenced by any of the observations made by this Court in this civil revision petition. No costs. Consequently, connected miscellaneous petition is closed.

22.02.2024

Index :yes/No
Speaking /Non speaking order
vsi

To

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The Sub-Court,
Cheyyar



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J.NISHA BANU, J.

vsi

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