



C.R.P.No.354 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.354 of 2022 and
C.M.P.No.1841 of 2022

C.Rajendran

... Petitioner

Vs.

1.C.Krishnamoorthy
2.S.Mangalam
3.The Commissioner,
Corporation of Chennai,
Park Town, Chennai – 600 003.

4.The Area Engineer,
Tamil Nadu Electricity Board,
Velachery Division,
Velachery,
Chennai – 600 042.

... Respondents

PRAYER: Revision filed under Article 227 of the Constitution of India praying to set aside the fair and decretal order passed by the Hon'ble VII Assistant City Civil Judge, at Chennai on 16.09.2021 in I.A.No.2 of 2022 in O.S.No.8198 of 2019.

For Petitioner : Ms.Malathi
for Mr.V.Ramamurthy

For respondents : Ms.S.Pavithrashini



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ORDER

This revision arises against the order passed by the learned VII Assistant Judge, City Civil Court at Chennai in I.A.No.2 of 2020 in O.S.No.8198 of 2019 dated 16.09.2021.

2. O.S.No.8198 of 2019 is a suit presented by the 1st respondent herein to declare that the records maintained by the Corporation of Chennai and the Tamil Nadu Electricity Board should be maintained in the name of the plaintiff alone, and also to declare that the records created in the name of the 2nd defendant in the Corporation of Chennai, Tamil Nadu Electricity Board, Civil Supply Corporation and Aadhar Card in respect of address of the 2nd defendant are all manipulation and not valid for any purposes. He also sought for permanent injunction restraining the defendants from indulging in any manipulation activity or committing fraud in procuring the records pertaining the suit property without affording participation to the plaintiff, or creating any third party interest in the property against the right and interest of the plaintiff, and for costs.

3. For the sake of convenience, the parties are referred to as per their rank in the suit.



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4. The plaintiff, Krishnamoorthy, and the 1st defendant, Rajendran, are brothers. It is the case of the plaintiff that he had purchased the suit schedule mentioned property out of his funds and had permitted his mother to reside in the property. He would also plead that the 2nd defendant viz., S.Mangalam is his sister and is the wife of one Sekar, and that she is residing separately. He would also plead that the 1st defendant is residing separately and he has no right or interest over the suit schedule mentioned property. According to him, the 1st defendant, showing the address of the plaintiff, has obtained records from the Tamil Nadu Electricity Board as well as the Corporation of Chennai which reflected his name. This, according to him, gives a cause of action for him to file the present suit.

5. The 1st defendant on entering appearance filed an application for rejection of plaint. According to him, the plaintiff cannot claim a relief of declaration and unless and until he filed a document to establish his legal status or character. The second ground was that, the records had been issued 25 years before the presentation of the plaint and therefore, the suit is barred by time. He would state that the suit as framed is not



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maintainable and the plaintiff is not entitled to seek any relief as the proceedings are hit by Sections 34, 38 and 39 of the Specific Reliefs Act.

6. On the basis of the documents and counter and the oral submissions made by the parties, the learned Trial Judge came to a conclusion that the application for rejection of plaint is not maintainable and has to be dismissed, against which the present revision.

7. Heard Ms.Malathi, representing for Mr.V.Ramamurthy for the petitioner and Ms.Pavithrashini, representing for Mr.V.Manohar for the respondents.

8. Ms.Malathi would contend that the suit is barred by virtue of the fact that the plaintiff has not claimed any legal status in the suit. She would rely upon the recent judgment of the Supreme Court in ***Ramisetty Venkatanna and another Vs. Nasyam Jamal Saheb and others , 2023 SCC Online 521***, to argue that the plaint is liable to be taken off the file of the City Civil Court.

9. Ms.S.Pavithrashini would contend that much water has flown in



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the proceedings after the application for rejection of the plaint was filed.

Today, the parties are undergoing trial before the learned VII Assistant Judge. She would state that there is a cause of action for the suit and the revision deserves to be dismissed.

10. I have considered the arguments on either side.

11. Insofar as the matter relating to rejection of plaint is concerned, I am only required to look at the averments made in the plaint alone. The defence that would be taken by the defendants is absolutely irrelevant for the purpose of Order VII Rule 11. The plaint is to be rejected if the cause of action that has been pleaded is illusory, as already pointed out in the aforesaid authority.

12. In the present case, the specific plea of the plaintiff is that he is the owner of the property and the 1st defendant had nothing to do with the purchase or enjoyment of the same. He would state that he had purchased the property and permitted his mother to reside therein. According to him, taking advantage of this fact, the 1st defendant had created records as if he is residing in the property. It is the case of the 1st defendant that, in fact,



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he is residing in the property and he is entitled to the same.

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13. Whether the plaintiff is the owner of the property or whether the records issued by the defendants 3 and 4 are valid are mixed questions of law and fact. The State / respondents 3 and 4 obviously cannot give a certificate for a person, who is not residing there or does not have any right, title or interest in the property. This issue necessarily has to be gone only at the time of trial. The pleadings of the 1st defendant cannot be utilised by him to nip the plaint in its bud. I do not find any merits in the revision. Hence, the Civil Revision Petition is dismissed. The costs in this petition will be subject to the result of the suit. Consequently, connected miscellaneous petition is also dismissed.

25.04.2024

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation : Yes / No

Sgl

To

VII Assistant City Civil Judge,
Chennai



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V.LAKSHMINARAYANAN, J.

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