



C.R.P.No.4115 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2024

CORAM

THE HONOURABLE Mrs. JUSTICE R.KALAIMATHI

C.R.P.No.4115 of 2022

and C.M.P.No.21394 of 2022

1.S.Dili Babu

2.S.Santhosh Kumar

...Petitioners

vs.

S.Suryakumar

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order and decretal order in I.A.No.24 of 2020 in O.S.No.97 of 2019 on the file of Principal District Munsif, Alandur, dated 20.09.2022.

For Petitioner : No Appearance

For Respondent : No Appearance

ORDER

No representation for the petitioners since so many hearings.

2. This Civil Revision Petition has been filed by the defendants against the order passed in I.A.No.24 of 2020 in O.S.No.97 of 2019 on the file of the Principle District Munsif Court, Alandhur dated 20.09.2022.



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3. On perusal of the records, it appears that an application was taken out by the defendants under Order VII Rule 1 of Code of Civil Procedure, 1908 (*hereinafter referred to as CPC*) to reject the plaint in O.S.No.97 of 2019.

4. It has been averred in the petition that the plaintiff does not have any right, title, share or interest in the suit property and the respondent/plaintiff has approached the Court with false claim with an intention to encumber the suit property and the relief of declaration was not sought for.

5. It was counteracted by the respondent/plaintiff by stating that the plaintiff and defendants are brothers. Their grandmother got the suit property by way of assignment patta issued by the Special Tahsildar, Saidapat in the year 1974. She has executed a registered Will in favour of her daughter Vaduvammal, who is the none other than the mother of the respondent and petitioners herein. The superstructure in the suit schedule was constructed by Kuppammal, who is the grandmother of the respondent and petitioners herein and shops on the suit property were constructed by the plaintiff with his own income. Without effecting



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partition, the first defendant has executed registered settlement deed in favour of the second defendant on 19.04.2018.

6. The suit was filed for the relief of declaration, to declare that the settlement deed dated 19.04.2018 executed in Sub Registrar Office, Pallavaram in Document No.2695 of 2018 by the first defendant in favour of the second defendant is null and void and not binding on the plaintiff and for costs.

7. The details of the cause of action given in the plaint is extracted hereunder:

“The plaintiffs submit that the cause of action for the suit arose at Chromepet during 2018, when the settlement deed to the second defendant on 19.04.2018, Pallavaram Taluk, Alandur within jurisdiction of this Court. The same has been registered in S.R.O. Pallavaram vide document no.2695 of 2018. The plaintiff submit that without partition among the plaintiff and the defendant the settlement deed was registered in SRO, Pallavaram. When the defendant try to disposes of the suit property without partition.”

8. Order VII Rule 11 of CPC can only be invoked,



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- i. Where the plaint does not disclose cause of action.
- ii. Where the relief claimed is undervalued, and the plaintiff, on being required by the court to correct the valuation within a time to be fixed by the Court, fails to do so.
- iii. Whether the relief claimed is properly valued but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp paper within a time to be fixed by the Court, fails to do so.
- iv. Where the suit appears from the statements in the plaint to be barred by any law.
- v. Where it is not filed in duplicate.
- vi. Where the plaintiff fails to comply with the provisions of Rule.

9. In order to decide the issue, the Court has to look into the plaint allegations and the documents submitted by the plaintiff. The cause of action details mentioned in the plaint states that without any right or title, the first defendant has executed a settlement deed in favour of the second defendant on 19.04.2018 with regard to a portion of the suit property and the said document is under challenge. The details pleaded in the petition does not fit into the Order VII Rule 11 CPC. The issues can only be decided after trial and the grounds set forth in the petition will not



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come under Order VII Rule 11 CPC. Therefore, in such view of the matter, based on the aforestated discussions, I do not find any perversity or infirmity in the order of the trial Court. In the result, this Civil Revision Petition stands dismissed. There is no order as to costs. Consequently, Civil Miscellaneous Petition stands closed.

12.09.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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To
The Principal District Munsif, Alandur



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R.KALAIMATHI, J.

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