



A.No.5396 of 2024 in C.S No.240 of 2024

A.A.NAKKIRAN.,J

This application has been filed by the applicants/defendants to reject the plaint upon the premise of non disclosure of cause of action and barred by law.

2. Heard both side.

3. The learned counsel for the applicants/defendants submitted that the respondent/plaintiff having averred in the plaint that the schedule mentioned immovable property is the self acquired property of the 1st defendant, on the contrary has claimed the share of her deceased husband, who is the son of the 1st defendant, as a legal heir of him without having any legal right to claim the same. He further submitted that no legal heir is lawfully entitled to claim any share in the self acquired property of any person unless the property is voluntarily transferred in favour of the legal heir and hence the suit is liable to be rejected for non disclosure of cause of action and also barred by law. The suit is filed with by abusing the process of law with the malafide intention to cause severe hardship and annoyance to the applicant/1st defendant with ulterior motive when he fraught with severe distress consequent to demise of his son and aged ailments. Hence he prays to allow this application and reject the



plaint.

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4. The learned counsel for the respondent/plaintiff submitted that the defendants are taking steps to alienate the suit property in a clandestine manner without the knowledge of the respondent/plaintiff, once the defendants alienate the suit schedule property, she will be put to great hardship by facing multiplicity of suit. He further submitted that there is cause of action for the above suit and hence, he prays to dismiss this application with exemplary costs.

5. Considering the facts and circumstances of the case, this Court is of the considered opinion that every suit has to be decided on merits based on the plaint averments which are germane in the suit. As the properties and the parties in C.S No.240 of 2024 and T.O.S No.68 of 2024 are one and the same, the issue could be decided on consideration of the oral and documentary evidences to be adduced on both sides only at the time of trial. Further, the plaintiff is having an arguable case. Therefore, this Court is not inclined to accept the submissions made by the learned counsel for the applicants/defendants. Hence, this application deserves to be dismissed.

6. Accordingly, this application is dismissed.



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7. Post the matter for filing written statement on 10.12.2024.

28.11.2024

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