



DATED : 27.02.2024

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

1. A.Shenbagalakshmi
2. S.Srinath
3. S.Srilakshmi

... Petitioners

/vs/

1. S.Arumugam
2. A.Sivaprakash

... Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 14.12.2022 passed by the XIX Additional Judge, City Civil Court, Chennai in I.A.Sr.No.86082 of 2022 in O.S.No.6037/2019.

For Petitioners ... Mr.K.M.Ramesh, Senior Counsel
for Mr.T.D.K.Govindarajan

For Respondents ... Mr.V.Sudarraman



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ORDER

WEB COPY This civil revision petition has been filed to set aside the order dated 14.12.2022 passed by the XIX Additional Judge, City Civil Court, Chennai in I.A.Sr.No.86082 of 2022 in O.S.No.6037/2019.

2. The petitioners herein are the defendants and the respondents herein are the plaintiffs in the above said suit, which was filed for " recovery of vacant possession of the suit schedule property from the defendants 1 to 3 and also for damages for use and occupation ". In the above said suit, the petitioners herein have filed their written statement. Subsequently, they filed a petition to reject the plaint and it was rejected at the SR itself. Challenging the same, the present civil revision petition has been filed.

3. The learned counsel for the petitioners submitted that, though the petitioners have filed the petition to reject the plaint, narrating all the grounds, viz., the suit is bad for non joinder of necessary parties; there is no cause of action for filing the suit; the material facts were suppressed;



and the plaintiffs have misrepresented the material documents in Ex.A3, A9 and A10, the learned Judge, without considering the above points, has simply rejected the petition at the SR stage itself, holding that "the suit is in the stage of arguments and the maintainability of the suit can be decided at the main judgment". Therefore, the impugned order is liable to be dismissed.

4. The learned counsel for the respondents has objected the civil revision petition and pleaded for dismissal.

5. Heard the learned counsel for the petitioners and the learned counsel for the respondents and I have perused the materials on record.

6. On perusal of the records it reveals that, in the above said suit, the petitioners have filed written statement on 18.11.2019 itself. Thereafter, trial proceedings were completed and the suit was posted for arguments. In such circumstances, the petitioners/defendants have filed the above petition to reject the plaint under Order VII Rule 11 of CPC on 07.12.2022,



in which, they have raised the followings grounds.

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i) the suit is bad for non joinder of necessary party, i.e. the wife of the first plaintiff and mother of second plaintiff and first defendant.

ii) The plaintiffs have misrepresented with regard to the Ex.A3, A9 and A10 and thereby the played fraud upon the court.

iii) There is no averment and pleadings with regard to cause of action.

iv) The plaintiffs have filed the suit, suppressing the material facts.

7. The ground of cause of action for fling the suit, has to be considered from the total averments made in the plaint and it cannot be looked into from a particular paragraph. Further, on the ground of cause of action, the plaint cannot be rejected. The other grounds of non joinder of necessary party, misrepresentation of the documents, and all other things raised by the petitioners, have to be adjudicated only after completing of evidence and at the time of pronouncing judgment. Therefore, this court is of the view that, for the above said grounds raised by the petitioners, the plaint cannot be rejected and the trial court has rightly rejected the petition, at the SR stage itself. As such, I find no infirmity in the impugned order passed by the learned Trial Judge to interfere over the same and hence, the



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civil revision petition is liable to be dismissed, as it has no merits.

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8. Accordingly, this civil revision petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Internet : Yes/No

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To

The XIX Additional Judge, City Civil Court, Chennai.



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