



A.S(MD)No.163 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.02.2024

CORAM :

THE HONOURABLE MR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

A.S(MD)No.163 of 2013
and
M.P(MD)No.2 of 2013

The Idol of Sri Renganatha Swamy, Srirengam
Represented by its Executive Officer/Joint Commissioner,
Having Office at Devasthanam Office,
Srirengam, Trichirappalli-6.

... Appellant

vs.

1. M.Muruganatham
2. P.Sakthivel
3. M.Ravichandran
4. M.Balasubramanian
5. Deenadayalan
6. D.Prema
7. Thilak Chandran
8. Yesudoss
9. V.Ramakrishnan
10. K.S.Nagarajan

... Respondents

Appeal filed under Section 96 of the Code of Civil Procedure,
against the judgment and decree dated 04.12.2012 in I.A.No.5 of 2012 in
O.S.No 172 of 2012 on the file of the II Additional District Judge,
Tiruchirappalli.



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For Appellant : Mr.M.Saravanan
For Respondents : Mr.T.Antony Arulraj for Mr.D.Rajkumar

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J U D G M E N T

G.JAYACHANDRAN, J.

and

C.KUMARAPPAN, J.

The Executive Officer/Joint Commissioner of Sri Renganatha Swamy Temple, Srirangam, is the appellant. Since the suit filed by the temple for recovery of possession in the year 2007 later came to be rejected on the application taken out by the defendants under Order 7 Rule 11 of the Civil Procedure Code, this appeal has been filed by the appellant stating that the order of the Court below rejecting the plaint on flimsy ground not satisfying parameters laid down under Order 7 Rule 11 CPC is liable to be set aside and the appellant should be given a full and fair opportunity to contest the suit on merits.

2. The plaint by the temple through its Executive Officer is filed seeking recovery of possession based on a document executed on 26.08.1935 with the nomenclature 'family arrangement deed' between the family members of Manali Ramkrishna Mudaliar. Under the Trust several properties been endowed with specific purpose. The suit



property is one of the property mentioned in the said family arrangement deed which is dedicated for running a Vedha Padasala and other religious charitable purposes. Therefore, on the premise that an attempt is made to alienate the property, suit has been filed with the specific allegation as below:

'12. The attempt to get over the inalienability of the suit properties so expressly set out in the agreement of Manali Saravana Mudaliar and Manali Srinivasa Mudaliar by trying to spell out a mere charge of the property by covering various religious endowments and Kattalais are futile. From one thing neither the content nor the religious endowments and Kattalais over the years not anything found in the agreement dated 23-12-1935 provide a Thittam (தீட்டம்) expenditures fixed for the performance of the religious endowment and the Kattalais as stated supra to be met by the Trustees.

13. It has been specifically recited in the deed dated 23-12-1935 that Manali Saravana Mudaliar and Manali Srinivasa Mudaliar shall not be entitled to alter or vary the agreement or the family arrangement in any manner. Further the Honourable High Court of Judicature at Madras in the Writ proceedings in W.P.No.2070/1981 specifically held that the Trust is an institution of religious Trust of public nature will go to show that the properties covered under the deed dated 26-8-1935 are only Trust properties. The admissions made in the affidavit in the Writ proceedings will also prove that the Charities are the Religious Endowment/Specific Endowment and are dedicated in favour of the Plaintiff and the Defendants 1 to 3 Idols.'



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3. The cause of action paragraph in the plaint reads as under:

'21. Cause of action for the suit arose on and from 1-4-1890 when the Will is referred as family charity by Manali Vaidhyaligam on and from 1-1-1901 when the Will was executed by Manali Ramkrishna Mudaliar, on and from 26-8-1935 when the family arrangement was entered in to by Manali Saravana Mudaliar and Manali Srinivasa Mudaliar, on and from 24-8-1988 the Honourable High Court held that the Trust is a public Religious Trust, on and from 17-11-1997 when the properties were alienated, on and from 01-8-05 when the suit O.S.No.1357 of 1999 was dismissed for default, on and from 22-2-2007 when the suit O.S.No.189 of 2004 was illegally compromised and subsequent days thereon and at Vellithirumuththam Village within the jurisdiction of this Honourable court where a portion of the suit property among other situate, where the alienees are residing, in and around Tamilnadu where the suit properties situate, where the defendants are bound to vacate and surrender possession of the property, within the jurisdiction of the Honourable court.'

4. The plaint was presented on 17.12.2007. On receipt of summons, the defendants have filed their written statement and additional written statement. Issues were framed on 22.12.2007 and the matter was adjourned for trial. At that juncture, the defendants 5 to 14 have taken out an application under Order 7 Rule 11 CPC to reject the plaint stating that there is no specific allegation in the plaint that suit property has been dedicated in favour of the idol of Sri Renganatha Swamy for the purpose of religious charities viz., running Vedha



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Padasalai at Chandra Pushkarani in temple premises or other religious obligations set out in the plaint and therefore for want of cause of action, the suit has to be rejected.

5. The learned Judge after giving opportunity to the plaintiff in the application to reject the plaint had allowed the petition on the ground that there is no pleading in the plaint to show the dedication of the suit property for religious purpose viz., running Vedha Padasalai at Chandra Pushkarani in temple premises. This Court on perusing the plaint and the relevant portion which has already been extracted above and the list of documents relied by the plaintiff, finds that the plaintiff had succinctly pleaded about the dedication of the suit property and has also relied upon the family arrangement which is document No.1 in the plaint. Besides, in the cause of action portion, the plaintiff has disclosed how the cause of action for the suit has arisen. It is unfortunate that the Court below had entertained the application under Order 7 Rule 11 CPC which can be entertained only on specific circumstances enumerated under the statute and not on any other ground. After framing the issues instead of conducting the trial, the Court below had ventured into entertaining the application to reject the plaint for a reason which is not materially



correct. There is a pleading regarding dedication of the property and also *prima facie* the plaint pleading is supported by a document. It is for the defendants and the plaintiff to prove the content of the pleadings by letting in evidence. Rejection of plaint under Order 7 Rule 11 CPC is totally improper, illegal and unsustainable.

6. At this juncture, it is profitable to refer the recent judgment of the Hon'ble Supreme Court in **Kum.Geetha and others vs. Nanjundaswamy 2023 INSC 964**, the facts which are almost similar to the facts of the case in hand:

"6.

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23.12. *In Hardesh Ores (P) Ltd. v. Hede & Co. [Hardesh Ores (P) Ltd. v. Hede & Co., (2007) 5 SCC 614] the Court further held that it is not permissible to cull out a sentence or a passage, and to read it in isolation. It is the substance, and not merely the form, which has to be looked into. The plaint has to be construed as it stands, without addition or subtraction of words. If the allegations in the plaint prima facie show a cause of action, the court cannot embark upon an enquiry whether the allegations are true in fact. D.Ramachandran v. R.V.Janakiraman [D.Ramachandran v. R.V.Janakiraman, (1999) 3 SCC 267; See also Vijay Pratap Singh v. Dukh Haran Nath Singh, AIR 1962 SC 941].*

23.13. *If on a meaningful reading of the plaint, it is found that*



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the suit is manifestly vexatious and without any merit, and does not disclose a right to sue, the court would be justified in exercising the power under Order 7 Rule 11 CPC.

23.14. The power under Order 7 Rule 11 CPC may be exercised by the court at any stage of the suit, either before registering the, plaint, or after issuing summons to the defendant, or before conclusion of the trial, as held by this Court in the judgment of Saleem Bhai v. State of Maharashtra [Saleem Bhai v. State of Maharashtra, (2003) 1 SCC 557]. The plea that once issues are framed, the matter must necessarily go to trial was repelled by this Court in Azhar Hussain case [Azhar Hussain v. Rajiv Gandhi, 1986 Supp SCC 315. Followed in Manvendrasinhji Ranjitsinhji Jadeja v. Vijaykunverba, 1998 SCC OnLine Guj 281: (1998) 2 GLH 823].

.....

7. In simple terms, the true test is first to read the plaint meaningfully and as a whole, taking it to be true. Upon such reading, if the plaint discloses a cause of action, then the application under Order VII Rule 11 of the CPC must fail. To put it negatively, where it does disclose a cause of action, the plaint shall be rejected."

7. Hence, the Appeal Suit is allowed and the order of the trial Court dated 04.12.2012 made in I.A.No.5 of 2012 in O.S.No 172 of 2012 on the file of the II Additional District Judge, Tiruchirappalli, is set aside. Any observation made above is restricted for deciding the appeal and to test the legality of the order passed by the trial Court in the application filed under Order 7 Rule 11 CPC and it shall not have any bearing while deciding the issues framed in the main suit. Since the suit is pending for



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more than 16 years, the learned trial Court is directed to give priority to the suit and commence the trial soon after the receipt of the records. No costs. Connected miscellaneous petition is closed.

(G.J., J.) (C.K., J.)
07.02.2024

Index : Yes / No
Neutral Citation : Yes / No
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To

The II Additional District Judge,
Tiruchirappalli.



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and
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JUDGMENT MADE IN
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DATED : 07.02.2024