



C.R.P.(MD) No.80 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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|               |            |
|---------------|------------|
| Reserved on   | 19.11.2024 |
| Pronounced on | 04.12.2024 |

CORAM

**THE HON'BLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI**

**C.R.P.(MD) No.80 of 2024**

and

**C.M.P.(MD) No.400 of 2024**

1.Packiam  
W/o.Murugesan

2.K.S.V.Vishwanathan  
S/o.Veerappan

3.Subramanian  
S/o.Velayutham

4.Veerappan  
S/o.Muthusamy

5.Thangammal  
W/o.Veerappan

6.Arjunan  
S/o.Veerappan

7.Raman  
S/o.Veerappan

8.Kulanthaivel  
S/o.Veerappan

... Petitioners

Vs.



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1.Chidambaram  
S/o.Muthuveeran

2.Angammal  
W/o.Kandan Poosari

3.Ravi  
S/o.Kandan Poosari

4.Murugan  
S/o.Kandan Poosari

5.Sundari  
W/o.Subramani

6.Velmurugan  
S/o.Manickam

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decreetal order made in I.A.No.2 of 2022 in O.S.No.114 of 2021 on the file of the Additional District Munsif Court, Musiri dated 11.07.2023.

For Petitioners : Mr.T.Lenin Kumar

For R1 : Mr.K.Arun Raj

For R2 to R4 : Mr.R.R.Kannan

For R5 & R6 : No appearance

### **ORDER**

This Civil Revision Petition has been filed against the fair and decreetal order dated 11.07.2023 passed in I.A.No.2 of 2022 in O.S.No.



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114 of 2021 on the file of the Additional District Munsif Court, Musiri,  
Tiruchirappalli District.

2. In the above suit, the revision petitioners are the fourth to seventh and tenth to thirteenth defendants, the first respondent is the plaintiff, and the second to sixth respondents are the first to third, and eighth and ninth defendants.

3. The facts of the case are that the second and sixth respondents filed a suit in O.S.No.453 of 1998 for a declaration and recovery of possession against the vendor of the revision petitioners, namely Nallammal, before the Principal District Munsif Court, Namakkal, and obtained a decree in their favour. However, the same was reversed by the Subordinate Court, Namakkal, in an appeal suit in A.S.No.36 of 2000. The second appeal filed by the second to sixth respondents was also dismissed at the S.R. stage, i.e., at the stage of the condone delay petition in filing the second appeal.

4. The first respondent, as the lessee of the suit property, filed the present suit in O.S.No.114 of 2021 against the revision petitioners and the



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second to sixth respondents herein before the Additional District Munsif Court, Musiri, seeking the relief of a permanent injunction. It is the case of the first respondent in the suit that the suit property belonged to one Kandan Poosari, the husband of the second respondent and the father of the third and fourth respondents; that for the past 25 years, the second and third respondents have been residing in Namakkal and had leased out the suit property orally to the first respondent; that the first respondent was regularly paying the lease amount on the basis of the oral lease agreement without any default; that on 28.07.2014, an unregistered lease agreement was executed by them for a period of one year, and the same was renewed periodically up to 27.07.2021; that in the month of January 2021, the revision petitioners attempted to dispossess the first respondent, claiming that they had purchased the suit property from the lawful owner.

5. It is further the case of the first respondent that resisting the claim of the first respondent, the revision petitioners filed their written statement, in which it was stated that one Ramasamy, Susila, and Maheswari, along with the second and third respondents herein, filed a suit against the revision petitioners and the said Nallammal for the relief of declaration and recovery of possession; that since the revision



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petitioners purchased the property on 23.01.1998 through a registered Sale Deed, they had been added in the suit; that the suit was initially decreed by the trial court, but the same was reversed by the Subordinate Court, Namakkal, in A.S.No.36 of 2000; and that the second appeal was also dismissed at the condone delay petition stage itself.

6. It is further the case of the first respondent that after the written statement was filed, the revision petitioners filed I.A.No.2 of 2022 in the present suit seeking to reject the plaint. The trial court dismissed the said application by stating that the documents relied upon by the revision petitioners can be looked into only at the time of trial. Aggrieved by the same, the present Civil Revision Petition has been filed.

7. The learned counsel for the revision petitioners would submit that the alleged cause of action mentioned in the plaint is illusory and is not supported by any material; that since the revision petitioners are not parties to the unregistered lease agreement, the same will not bind the revision petitioners; that the second and third respondents have categorically admitted the possession of the revision petitioners' vendor in the earlier suit in O.S.No.453 of 1998; that the plea of the first respondent



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that he has been cultivating the land for the past 25 years on the basis of an oral and written lease agreement is nothing but a concocted story; that the trial court, while considering the application under Order 7 Rule 11 of the CPC for rejection of the plaint, ought to have allowed the said application by exercising its inherent power, as it is evident that the above suit is vexatious; that mere contemplation or possibility that a right may be infringed without any legitimate basis for that right would not be sufficient to hold that the plaint discloses a cause of action; and that, therefore, the suit, which is vexatious, meritless, and groundless, can be nipped in the bud itself, and the case on hand also falls within the term 'vexatious, meritless, and groundless' and, therefore, the same should be nipped in the bud itself.

8. The learned counsel for the revision petitioners would further submit that the revision petitioners are the owners of the suit property and are in absolute possession and enjoyment of the same; that the question of cultivating the land by the first respondent is false and invented for the purpose of gain, and hence, the plaint is liable to be rejected; and that the trial court, without considering the above facts, erroneously dismissed the application in I.A.No.2 of 2022 filed by the revision petitioners for



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rejection of the plaint, which requires interference by this Court. He would therefore pray for setting aside the impugned order.

9. On the other hand, the learned counsel for the first respondent would submit that the decree in A.S.No.36 of 2000 on the file of the Subordinate Court, Namakkal, will not bind the first respondent, as he is claiming cultivating rights in the suit property; that since the first respondent was not a party to the earlier proceedings, any decree passed, either in the suit or in the appeal, will also not bind the first respondent; and that, moreover, the revision petitioners are not in possession of the suit property.

10. The learned counsel for the first respondent would further submit that the contention of the learned counsel for the revision petitioners that the cause of action alleged in the plaint is illusory is incorrect, as the cause of action alleged in the plaint is different from the cause of action in the earlier suit; that in the present case, the court can reject the plaint on the ground that it does not disclose a cause of action, but not in the later case, and therefore, the question of whether the cause of action is true or not cannot be the scope of inquiry in the application



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filed under Order 7 Rule 11 of CPC, and that the trial court has correctly dismissed the said application on this ground, which requires no interference.

11. Heard on both sides. Records perused.

12. According to the revision petitioners, by virtue of the decree passed in A.S.No.36 of 2000, they are the absolute owners of the suit property and are in possession and enjoyment of the same; that the first respondent, being set up by the second and third respondents, who failed in the earlier suit, has filed the present suit without any merit; and that since the right and possession of the revision petitioners were confirmed in A.S.No.36 of 2000, the cause of action in the present suit is merely illusory, and therefore, the trial court ought to have rejected the plaint on the ground that it does not disclose a cause of action.

13. There is no doubt that a reading of Order 7 Rule 11 of the CPC shows that neither suppression of facts nor misrepresentation, nor even fraud, has been made a ground for rejection of the plaint, and that the rule does not include abuse of process of court as a ground for rejection of the



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plaint. Clauses (a) and (d) of Order 7 Rule 11 of the CPC deal with the absence of disclosure of a cause of action and the suit appearing, from the statement in the plaint, to be barred by any law. Whether the plaint discloses a cause of action for the suit or not has to be decided only based on the averments made in the plaint. The cause of action may or may not be true and may even be a deliberate falsehood. However, if the cause of action in the plaint is illusory, the court can reject the plaint on the ground that it does not disclose a cause of action.

14. According to the revision petitioners, they are the absolute owners of the suit property and are in possession of the same by virtue of the decree passed in A.S.No.36 of 2000. The revision petitioners have also filed documents to establish the same before the trial court in the application for rejection of the plaint. Upon perusal of the plaint and averments, except for the alleged unregistered lease agreement, the first respondent has not produced any documents to establish that he has been cultivating the land for the past 25 years as a leaseholder. Moreover, the second and third respondents, who were parties to the earlier proceedings in O.S.No.453 of 1998 and A.S.No.36 of 2000, are alleged by the first respondent to have leased out the suit property to him.



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15. This Court is of the view that the second and third respondents, without any rights whatsoever, have leased out the property to the first respondent, and therefore, the suit filed by the first respondent is manifestly vexatious in the sense that it does not disclose a clear right to sue. Further, considering the facts and circumstances of the case, the continuation of the trial would result in an abuse of the process of the court. As rightly pointed out by the learned counsel for the revision petitioners, the principle that mere contemplation or the possibility that a right may be infringed, without any legitimate basis for that right, would not be sufficient to hold that the plaint discloses a cause of action, applies to the present case. The first respondent, even in the plaint, has relied upon the oral and unregistered written agreement entered into between him and the second and third respondents, without any evidence to establish his possession of the suit property.

16. Therefore, the impugned order dated 11.07.2023 passed by the trial court is set aside, and the suit in O.S.No.114 of 2021 on the file of the Additional District Munsif Court, Musiri, is rejected.



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WEB COPY 17. In the result, this Civil Revision Petition stands allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

04.12.2024

Index: Yes/ No  
Neutral Citation: Yes / No  
Speaking Order/Non-Speaking Order

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Copy To:

The Additional District Munsif,  
Musiri,  
Tiruchirappalli District.



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**K.GOVINDARAJAN THILAKAVADI, J.**

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Pre-Delivery Order made  
in  
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and  
C.M.P.(MD) No.400 of 2024

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