



C.R.P(MD).No.344 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.02.2024

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)No.344 of 2024

and

C.M.P(MD)No.1707 of 2024

R.Ravishankar

... Petitioner / Petitioner / 1st defendant

Vs

1.S. Vanitha

2.C.Sivakumar

... Respondents /Respondents/ Plaintiffs

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records relating to the order dated 27.11.2023 made in I.A.No.7 of 2023 in O.S.No.121 of 2020 on the file of the District Munsif Court, Uthamapalayam, Theni District and set aside the same and allow this Civil Revision Petition.

For Petitioner : Mr.V.R.G.Mohan



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ORDER

This Civil Revision Petition is filed to call for the records relating to the order dated 27.11.2023 made in I.A.No.7 of 2023 in O.S.No.121 of 2020 on the file of the District Munsif Court, Uthamapalayam, Theni District and set aside the same and allow this Civil Revision Petition.

2. The facts in brief is that the suit in O.S.No.121 of 2020 was filed by the plaintiffs who are the respondents herein seeking the relief of permanent injunction and for cost, making the following averments:

i) the suit property belongs to the first defendant namely R.Ravishankar. From 2005 onwards, the property was leased out to the plaintiffs for running a ready made shop. The plaintiffs were put in possession and paying the rent regularly. The total amount received by the first defendant from the year 2005 to 2018 is Rs.60 Lakhs. Acknowledging the same, he issued several receipts. But no interest was paid for the above said amount. In lieu of the interest, the plaintiffs are running the shop. Later, without informing the plaintiffs, the property was sold to the second defendant by the first defendant on 15.06.2020. Now they are



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trying to evict the plaintiffs from the suit property illegally. A peace committee meeting was held in which the first defendant agreed to pay Rs.60 Lakhs that was received. On 08.12.2020, the first defendant instigated the second defendant to make trouble to the plaintiffs, with some rowdy elements and the persons belong to political party. They disturbed the possession of the plaintiffs.

3. With this allegations they filed the suit seeking permanent injunction not to evict them from the possession, otherwise under due process of law without paying the amount received. The defendant appeared and filed the written statement denying the allegations.

4. Pending further process, the first defendant filed I.A.No.7 of 2023 under Order 7 Rule 11 of C.P.C., to reject the plaint with the following averments: The suit is not properly valued since the amount involved is Rs.60 Lakhs. The learned District Munsif, Uthamapalayam has no jurisdiction to entertain the plaint. The documents filed in support of the plaint are disputed. The cause of action pleaded in the plaint is not true.



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5. That was resisted by the plaintiffs stating that the suit is posted for cross examination of himself by the defendant. Only at that time, the petition came to be filed. After hearing both sides, the trial Court recorded the finding that no grounds mentioned under Order 7 Rule 11 of CPC., are attracted. There is cause of action for the suit and dismissed the petition.

6. Against the dismissal order, this revision has been preferred by the petitioner stating that since the suit is not properly valued, it ought to have been rejected by the trial Court. The plaintiffs are only a tenant under him. The suit for permanent injunction will not lie.

7. Heard the revision petitioner. Except the above said grounds, no other grounds worth considering when the petition is taken even at the admission stage.

8. Reading of the entire plaint does indicate that there is a cause of action namely there is an issue between the parties over the payment of



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Rs.60 Lakhs and a trouble alleged to have been created by the second respondent on 08.12.2020. So according to the plaintiffs, the defendants are making threat to their possession. The first defendant has also filed written statement. Disputing all the averments made in the plaint. Now the plaintiffs filed chief and affidavit. For cross examination only, at this stage, the present petition came to be filed.

9. The tenancy is not disputed by the first defendant, who sold the property to the second defendant. Whether the first defendant received Rs.60 Lakhs, or not, is a matter for consideration by the trial Court. Since the documents are disputed by the first defendant in the written statement, then it is necessarily got to be tried. Genuineness of the documents cannot be considered under Order 7 Rule 11 of C.P.C.

10. Apart from that eventhough it is contented that the total valuation of the suit is Rs.60 Lakhs, but reading of the entire plaint indicates that it is only a suit for permanent injunction and not for recovery of the amount. The suit was valued under Section 27(C) of Tamil Nadu Court fees and Suit Valuation Act.



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11. I find nothing wrong in the valuation which has been rightly held by the trial Court. Apart from that, as mentioned by the trial Court, no ground mentioned under Order 7 Rule 11 of CPC stands attracted, when there are triable issue between the parties which got to be continued to its logical end. I find no illegality in the order of the District Munsif Court, Uthamapalayam, Theni District, made in I.A.No.7 of 2023 in O.S.No.121 of 2020, dated 27.11.2023.

12. With the above observation, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

15.02.2024

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No

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To

- 1.The District Munsif Court, Uthamapalayam, Theni District.
- 2.The Record Keeper, Vernacular Records,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN, J.

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