



C.RP(MD)No.1585 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 19.07.2024

CORAM

THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P(MD)No.1585 of 2024

and

C.M.P(MD).No.9369 of 2024

Subash

... Petitioner

Vs.

1.Thalavai Pandi
2.A.Kovil Pitchai
3.The Executive Officer,
Arulmigu Subramania Swamy Thirukoil,
Valliyoor, Radhapuram Taluk,
Tirunelveli District.

...Respondents

Civil Revision Petition is filed under Article 227 of the Constitution of India, to allow the civil revision petition and consequently direct the learned Subordinate Judge, Valliyoor to reject the plaint in O.S.No.148 of 2015.

For Petitioner

: Mr.V.Sasikumar

ORDER

The civil revision petition is directed against the order of the learned Subordinate Judge, Valliyoor, dated 15.11.2023 made in I.A.No.3 of 2023 in O.S.No.148 of 2015.



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2. The said Interlocutory Application is filed by the petitioner/ third defendant in the suit, to reject the plaint. It is the contention of the petitioner, among other things is that there is no cause of action at all for the plaintiff to have filed the suit and in any event, the suit is barred by limitation. The trial Court has given a finding on merits as if the suit is within the period of limitation and has also held that the plaint need not be rejected. Aggrieved by the same, the present revision petition is filed.

3. The learned counsel for the petitioner herien would submit that the case of the plaintiff is that the plaintiff is the original lessee from the second defendant temple and the first defendant is only the sub-lessee and accordingly, he has prayed for relief in the suit. It is the case of the petitioner/ third defendant that subsequently the temple has leased out the property in favour of the third defendant and therefore, absolutely nothing survives and even there was no cause of action originally for filing the suit. He would also submit that when the rejection of plaint application is filed contending about the period of limitation, the trial Court ought to have given any findings regarding the same, when it refused to reject the plaint.



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4. I have considered the said submission made by the learned counsel for the petitioner and perused the materials record of the case.

5. It can be seen that suit is of the year 2015. The trial is in progress. The petitioner is the third defendant, who was also impleaded in the suit even in the year 2015. Therefore, at this belated stage, an application for rejection of plaint need not be entertained and no exception whatsoever can be taken to the ultimate decision of the trial Court in rejecting the application. The only contention of the learned counsel for the petitioner is that the trial Court has given a finding with reference to the limitation.

6. The third defendant as a party to the suit is entitled to take all the defences in the written statement filed and he has also taken the plea of limitation in the written statement also, which will be dealt with on its own merits in accordance with law as per the evidence of the parties, while considering the suit for final disposal. Any finding made in the interim application is only for the purpose of the interim application and the apprehension of the learned counsel for the petitioner is unfounded in this regard. Dehors the finding made in the Interlocutory Application, it will always be open for the petitioner to raise the ground of limitation, if he has pleaded in



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the written statement and the same will also be considered while disposing of the main suit.

7. With the above observation, the Civil Revision Petition is disposed of.

No costs. Consequently, connected Miscellaneous Petition is closed.

19.07.2024

NCC:Yes/No
Index:Yes/No
Rmk

To
1.The Subordinate Judge, Valliyoor.



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D.BHARATHA CHAKRAVARTHY, J.

Rmk

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