



CRP(MD).No. 3294 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.03.2024

CORAM :

THE HON'BLE MR JUSTICE G.ILANGO VAN

CRP(MD).No.3294 of 2023 and
CMP(MD).No.16977 of 2023

1.Leo Arockiasamy
2.Lurdu Edward Raj

... Petitioners

Vs.

R.Azhagar

... Respondent

PRAYER:- Petition filed under Article 227 of the Constitution of India against the fair and decreetal order passed by the Additional District Munsif, Manapparai in I.A.No.4 of 2022 in O.S.No.132 of 2022, dated 01.11.2023.

For Petitioners : Mr. V. Sasikumar

For respondent : Mr. C. Dhanaseelan

ORDER

This Civil Revision Petition has been filed against the fair and



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decreetal order passed by the Additional District Munsif, Manapparai in I.A.No.4 of 2022 in O.S.No.132 of 2022, dated 01.11.2023.

2. The suit in O.S.No.132 of 2022 was filed by the respondent / plaintiff seeking the relief of permanent injunction against the revision petitioners herein and for costs.

3. It is stated in the plaint that there was a lease agreement between the plaintiff and one Anthoniya Pillai on 04.09.2013, 04.11.2016 and 14.06.2018, 27.11.2019 and 19.04.2021. On the basis of the above said continuous lease agreement, he is in possession and enjoyment of the property. So his possession must be protected. The revision petitioners received summon and appeared before the trial court and filed a petition in I.A.No.4 of 2022 under Section 340 Cr.P.C., to initiate action against the respondent herein.

4. Along with the plaint, the respondent herein has enclosed a lease deed, dated 19.04.2021 alleged to have been executed between the respondent and the petitioners' father. The father of the revision petitioners viz., Anthony @ Anothoni Pillai became sick and bed ridden from



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17.02.2020 and after that he did not do anything without the knowledge of the revision petitioners, so strongly doubted the lease deed. They have also obtained information as per the provisions of the Right to Information Act regarding the date of sale of the NGS stamp and other things. The reply was received stating that the stamp paper, which was sold to one K.Srinivasan, on 07.12.2021 he sold to one Nagaraj on 09.12.2021. So the father would not have executed the lease deed now under dispute. So after getting stamp papers from the purchaser viz, Nagaraj fraudulent deed, dated 19.04.2021 was created. On that account he wants to initiate action against the respondent under Sections 465, 468 and 471 IPC. That was resisted by the respondent by filing counter. The trial Court after hearing both sides after perusal of the records dismissed the petition. Against which this revision is preferred.

5. Heard the learned counsel appearing for both sides and perused the materials available on records.

6. The learned counsel appearing for the revision petitioners reiterated the very same averments that made by him in the petition before the trial Court. The counsel for the respondent would submit that whether



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the above said lease agreement is a fraudulent one or true is a matter for consideration by the trial Court. Only after proving the genuineness of the documents, if any proceedings as suggested by the revision petitioners can be initiated. Moreover, there is no prima facie materials available to show that this document is a fabricated one. So according to him the order passed by the trial Court is perfectly valid,

7. As mentioned in the preamble portion of the order, the disputed document is dated, 19.04.2021 whether on the date of the above said document the father of the revision petitioners was bed ridden and sick cannot be a matter for a consideration, in this petition. It must be proved through proper evidence before the trial Court.

8. So the possibility or non possibility of the father to have entered into a lease agreement on that date with the respondent is beyond the scope of this petition. No finding or enquiry can be made on this aspect certain informations have been obtained by the revision petitioners through the Right to Information Act, as to the date of sale purchase of NGS stamp bearing No.CG019053 on which the present lease agreement has been written. As per the information furnished by him it was supplied to one



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Srinivasan on 07.12.2021, who is the licensed stamp vendor. The said Stamp vendor sold the stamp to one Nagaraj on 09.12.2021. So the lease agreement would not have been entered into on 19.04.2021. So according to the counsel for the revision petitioners prima facie indicates that it is the fabricated document. The Government documents is also annexed along with typed set of papers wherein we find that the date of sale of NGS stamp is affixed as if 15.04.2021. It is in quiet contrary to the information furnished by the competent authority to the revision petitioners. So the above said variation is a matter for consideration by the trial Court at the time of trial by summoning the authority, who supplied the NGS stamp to the stamp vendor viz., K. Srinivasan, on the basis of the record. It is seen that no concrete finding could be recorded or found either by the trial Court or by revisional Court. Since the factual issues are involved which requires thorough trial process, I am of the considered that the order of the dismissal passed by the trial Court requires no interference. So the petitioner has to wait till the conclusion of the trial process. If there be a finding to the effect that it is a fabricated document, then the petitioners are at liberty to invoke Section 340 Cr.P.C., before the trial Court on his own. So this is a too premature stage to record any finding in favour of the petitioners that it is not a genuine document.



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9. In the result, this Civil Revision Petition is dismissed. No costs.

Consequently, the connected Miscellaneous Petition is closed.

07.03.2024

Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order

trp

To

The Additional District Munsif, Manapparai.



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G.ILANGOVA, J.

Trp

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