



WEB COPY

A.No. 2834 of 2024 in CS.No.212 of 2017



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 07.01.2025

Pronounced on : 07.02.2025

CORAM

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

A.No. 2834 of 2024

IN CS. No. 212 of 2017

1. P.S.Kirubakaran and another
No.4 ,Jaffer syrang street, Mannady, chennai-600 001
2. P.S.Anandan Applicant(s)

Vs.

A.Azizul Karim
S/o.Abdul Malik

Respondent(s)

For Applicant(s): M/S.M. Nanda Kumar
Applicant 1 - P.S.Kirubakaran
Applicant 2 - P.S.Anandan
Applicant Name Printed As Per B/o Dt:09/09/2024
For Respondent(s):Mr.Aravind Subramanian
Senior Counsel for Mr.K. Gangadharan

ORDER

This application has been filed to pass an order to strike off the plaint in the above suit pending on the file of this court.

2. Learned counsel for the 1st applicant/6th defendant submitted that he is the co-owner of the property situated in Old S.No.2055, New S. No.273 Old Door No.129, New Door No.98, Coral Merchant Street, George Town Village, Chennai to an extent of 2163 sq.ft. The 1st applicant received a suit summons on 19.03.2019 in



suit, the counsel for the 1st respondent informed about an exparte decree passed

CS.No.212 of 2017 against the applicant and others. Thereafter, 1st applicant filed a

search memo in CS.No.212 of 2017 and obtained certified copies of the plaint, plaint

documents, process service report of the bailiff for issuance of the suit summons on

the defendants and came to know that the 1st applicant forged the sale agreement

dated 02.06.2014. The 1st applicant filed an application to institute perjury

proceedings against the 1st respondent in A.No.944/2020 in the said suit and the

same was allowed by this court vide order dated 01.10.2020. Thereafter, the

Registrar General of this court filed complaint against the 1st respondent and the

same is pending for perjury. During search, the police officials have recovered many

documents admitted by the petitioner in his confession as forged and fabricated to

grab many properties. In the modus operandi of the accused, the first strategy of the

accused is to enter into a sale agreement based on which the detinue with the help of

his syndicate would file suits with fake address as address for service in the suits and

make ready fake receipt of summons and thereby obtaining exparte orders and

decrees and filing execution petitions to make the court to deliver the property.

Except in OS.No.12898 of 2010, the address of the said counsel in all other cases are



OS.No.1298 of 2010 the counsel A.Anandhan's address is shown as “6/4 J.

Syrang Street, Chennai 600001. For the same property, the 1st respondent has filed

CS.No.212 of 2017 before this court for specific performance of sale agreement

dated 02.02.2014, for sale value of Rs.27 lakhs for the property in “New No.129,

Old No.98, Coral Merchant Street, Chennai 600001”. For the very same defendants,

the 1st respondent, has given different address. The Division Bench of this court

severely condemned the vexatious litigations filed by the 1st respondent in

OSA.Nos.254 and 255 of 2022. The present suit is the one to prove that the plaintiff

is filing frivolous and fraudulent litigation by using forged sale agreements by

colluding with court bailiffs. The receipts of cash payments made by the plaintiff to

the dead persons show the level of fraud and forgery committed by the plaintiff. No

cause of action could arise from the fraud and void agreements. Hence, he prays to

allow this application.

3. Learned counsel for the respondent has submitted that the OA.No.1267 of 2024

filed under Order 7 Rule 11 was withdrawn on 23.04.2023 with a liberty to file an

application under Order 6 Rule 16 CPC. The allegations made in the affidavit are

arguable issues and has to be decided in the trial. The offences made out against the

respondent has to be tried in a trial cannot be thrown out in the threshold. The



applicant has not filed his written statement. If The dispute of facts by the petitioner by the petitioner have to be undertaken in a trial and cannot be taken up under the second clause (b). Based on the interim orders passed, the pleadings cannot be struck down. The present suit does not amount to an abuse of process of law and not barred by any law. To invoke provision under Order 6 Rule 16, related evidence has to be taken on record. Hence, he prays to dismiss this application.

4. Heard both sides.

5. Upon perusing the materials on record, it is seen that there are some other defendants. For these two applicants alone, the suit cannot be struck off. In this case, the applicant has to file his written statement mentioning all the averments made in the affidavit and issues has to be framed and trial has to be concluded. Then only this Court shall come to proper conclusion. Hence, this application cannot be entertained at this stage and liable to be dismissed.

6. Accordingly, this application is dismissed.

07.02.2025

gv

Pre-delivery Order made in
A.No. 2834 of 2024 IN
CS. No. 212 of 2017