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CRP. No.2704 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:16.07.2025

Pronounced on:01.08.2025

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

**CRP. PD. No.2704 of 2024
and CMP. No.14288 & 24000 of 2024**

Ms.V.Seema

Petitioner

Vs

1.K.Senthilnathan
2.Mr.J.M.V.Karthick
3.The Sub Registrar,
Sub Registrar Office,
Kundrathur, Chennai – 600 069.

Respondents

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to strike off the plaint in O.S. No.212 of 2023 pending on the file of the Additional District and Sessions Judge-II at Poonamallee.

For Petitioner : Mr.M.Sricharan Rangarajan,
Senior Counsel for
Mr.Amogh Simha

For Respondents : Mr.M.Venkatakrisnan for R1



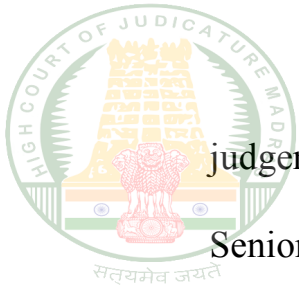
ORDER

The revision has been filed to strike off the plaint in O.S. No.212 of 2023 on the file of the Additional District and Sessions Judge II, Poonamallee.

2. I have heard Mr.M.Sricharan Rangarajan, learned Senior Counsel for Mr.Amogh Simha, learned counsel for the revision petitioner and Mr.M.Venkatakrishnan, learned counsel for the respondents 1 & 2.

3. Mr.M.Sricharan Rangarajan, learned Senior Counsel appearing for the revision petitioner, who is the first defendant in O.S.No. 212 of 2023 would contend that the plaintiff's sale deed has already been cancelled under Section 77-A of the Registration Act, 1908 and therefore, there is no cause of action for filing the suit based on the said registered sale deed in favour of the plaintiff.

4. Mr.Sricharan Rangarajan would fairly submit that though subsequently the Hon'ble Division Bench of this Court has struck down the provision viz., Section 77-A of the Registration Act, in the present case, the plaintiff cannot take advantage of the Hon'ble Division Bench



judgement which was passed on 26.03.2024. In this regard, the learned Senior Counsel would submit that the vendor of the plaintiff had moved this Court in W.P.No.34823 of 2007 and the same was dismissed for non-prosecution on 05.08.2021 and even thereafter, in WP.No.36389 of 2023 which was filed by the plaintiff himself, this Court did not set aside the sale deed, but only directed the Writ Petitioner, that is the plaintiff herein to approach the Civil Court and work out his remedy, in a manner known to law.

5. It is therefore contended by Mr.M.Sricharan Rangarajan, learned Senior Counsel that having exhausted his rights to challenge the cancellation of the sale deed, it is not open to the plaintiff to take advantage of the Hon'ble Division Bench judgment striking down Section 77-A of the Act. The learned Senior Counsel would therefore state that once the cancellation issue has attained finality, the present suit is clearly an abuse of process and amounts to re-litigation which is not permissible and this Court has to necessarily step in and strike off the plaint, invoking the powers available under Article 227 of the Constitution of India.



6. Per contra, Mr.M.Venkatakrisnan, learned counsel for the First Respondent/Plaintiff, would state that the plaintiff has been put in possession of the property and he has vacated tenants who were occupying the property and the matter went up to the Hon'ble Supreme Court as well. Even thereafter, in 2021, the plaintiff in order to put up new construction, has obtained the prior sanction plan from the Greater Chennai Corporation and having slept over the matter from 2006 to 2021, the revision petitioner has belatedly challenged the right, title and interest of the plaintiff.

7. He would further state that even the Writ Court while disposing of WP.No.36389 of 2023 on 26.02.2024 had noticed pendency of the civil suit filed by the first Respondent, viz., the present suit and directed the writ petitioner to work out his remedy in the present suit. Yet another writ was filed by the writ petitioner in W.P.No.17969 of 2024 and this Court by order dated 14.11.2024, noticing that the issue of title has to be set at rest and the writ petitioner viz., the 1st respondent/plaintiff having already moved the civil Court and Patta being restored in the name of his vendor, directed that no further mutation of revenue records would take place pending disposal of the suit and parties would also not encumber



the property till the disposal of the suit.

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8. It is therefore contended by Mr.M.Venkatakrishnan that when this Court has noticed the pendency of the suit and directed the plaintiff to work out his relief before this Court, the first respondent/plaintiff cannot straight away approach the High Court and seek for striking of the Plaintiff under Article 227 of the Constitution of India.

9. I have carefully considered the submissions advanced by learned counsel on either side.

10. As regards the sale deed of the plaintiff being set aside, no doubt on a complaint given by the revision petitioner, the District Registrar, Chennai-South conducted an inquiry and passed an order on 20.01.2023 holding that the documents were forged. The said order was challenged before the Inspector General of Registration.

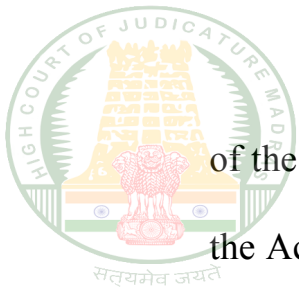
11. The Inspector General of Registration confirmed the order of the District Registrar as against which the the Plaintiff filed W.P.No.36389 of 2023 to quash the order of the District Registrar as well



as the Inspector General of Registration who had exercised powers under Section 77-A and 77-B of the Registration Act retrospectively. In the meantime, the present suit in O.S.No.212 of 2023 also came to be filed.

When the writ petition in W.P.No.36389 of 2023 was taken up for disposal, the Writ Court finding that suit in O.S.No.212 of 2023 has already been filed, the writ petitioner can always work out his remedy in the said suit and accordingly the writ petition was disposed of.

12. Though it is contended by Mr.M.Sricharan Rangarajan, learned Senior Counsel that the order of the District Registrar as well as the Inspector General of Registration have not been set aside by this Court and the same has become final, the First Respondent/Plaintiff's title ceases to exist and therefore, the plaintiff has no legs to stand and consequently, the suit does not survive for adjudication, it is to be borne in mind that since divergent views were taken by this Court with regard to Section 77-A of the Registration Act and the powers exercisable by the registering authorities, the matter was referred to larger Bench and in and by an elaborate decision, the writ petitions challenging the vires of Section 77-A of the Act came to be allowed and the very provision 77-A of the Act has been declared unconstitutional. The effect of the decision



of the Hon'ble Division Bench is that the provision viz., Section 77-A of the Act is totally effaced from the statute and has to be construed that it did not find a place in the enactment ever since the inception of the statute.

13. In the light of the above and considering the fact that the Writ Court, not once, but on two occasions referring to the subsequent developments and finding that the title has to be decided only by the civil Court, has directed the parties to work out the remedies in the pending civil suit, I do not find how the revision seeking to strike off the plaint can be entertained in the facts and circumstances of the present case. Though the learned Senior Counsel has relied on decision of the Hon'ble Supreme Court in *K.K.Modi v. K.N.Modi* reported in (1998) 3 SCC 573 and other decisions in support of his contentions that the power under Article 227 can be invoked to prevent abuse of process and re-litigation, I do not see how these decisions would apply to the facts of the present case.

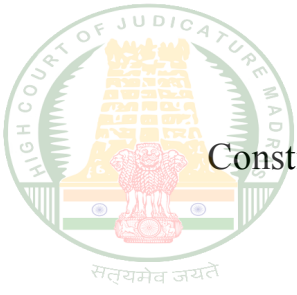
14. By two different orders, this Court has taken note of the pendency of the present suit and directed that the suit has to be tried on



its own merits. Therefore, there cannot be a shortcut attempted by the first defendant to strike off the plaint by approaching this Court under Article 227 of the Constitution of India. One another compelling reason for not exercising the power to strike off the plaint is that the plaintiff has specifically averred in the plaint that he has been in physical possession of the subject property right from the date of his purchase and has also evicted tenants and also applied for demolition and reconstruction and even obtained sanction.

15. Besides the relief of declaration that the plaintiff is the absolute owner of the suit property subsequent to the purchase way back in the year 2003, the plaintiff also seeks for reliefs of permanent injunction to restrain the defendants 1 and 2 from interfering with the plaintiff's possession and also to restrain them from in any manner alienating or encumbering the suit property. Admittedly, the plaint cannot be dissected and a piece meal alone be rejected or struck off, especially when the cause projected being abuse of process.

16. The parties would have to necessarily go for trial and it is not a fit case where this Court can exercise the power under Article 227 of the



Constitution of India and strike off the plaint.

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17. As already discussed in the light of the observations and directions of this Court in two separate Writ Petitions as well, it is more reason that the plaint cannot be summarily thrown out, invoking extraordinary powers under Article 227 of the Constitution of India.

18. For all these reasons, I am not inclined to entertain this Civil Revision Petition. Accordingly, this Civil Revision Petition is dismissed. Connected Miscellaneous Petitions are also closed. No costs.

01.08.2025

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Index : Yes
Internet : Yes

To:

The Additional District Judge and Sessions Judge-II,
Poonamallee.



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P.B.BALAJI, J.,

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Pre-delivery order in
CRP. PD. No.2704 of 2024
and CMP. No.14288 & 24000 of 2024

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