



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-09-2025

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THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HONOURABLE MR JUSTICE C. SARAVANAN

OSA No. 282 of 2025

and

CMP No. 21165 of 2025

M/s. S.R.P. Enterprises
Rep. by its Partner,
No.6 (Old No.37), Arcot Road,
Vadapalani,
Chennai - 600 026.

Appellant(s)

Vs

M/s.Doshi Constructions
A partnership firm registered under the
Indian Partnership Act,
Represented by its Partner,
Mr.Mehul H. Doshi,
Having registered office at
No.3H, Century Plaza,
No.560, Teynampet, Chennai - 600 018.

Respondent(s)

**PRAYER**

Original Side Appeal has been filed under Order XXXVI Rule 1 of the Original Side Rules, 1994 and Clause 15 of Letters Patent of 1865, praying to set aside the Fair and Decreetal order passed in Application No.378 of 2025 in C.S.No.574 of 2010 dated 25.07.2025.

For Appellant(s): Mr.S.R.Rajagopal
Senior Counsel
For Mr.P.Giridari

JUDGMENT

(Judgment was delivered by S.M.Subramaniam J.)

The Original Side Appeal on hand has been instituted to assail the order dated 25.07.2025 passed in Application No.378 of 2025 in C.S.No.574 of 2010.

2. The appellant is the 27th defendant in the suit. The suit was instituted for recovery of possession and payment of arrears of rent against the defendant. During the pendency of the suit, the appellant filed an application under Order VII Rule 11(d) of the Civil Procedure Code (CPC), seeking for rejection of the plaint. The application was adjudicated by the learned Single Judge and it was



dismissed, which resulted in filing of the present original side appeal.

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3. The learned Senior Counsel appearing on behalf of the appellant would mainly contend that since the appellant/27th defendant is a sub-lessee, as expressly stated in the plaint, he is entitled to seek rejection of the plaint under Order VII Rule 11(d) of the Civil Procedure Code. It is mainly contended that Section 51 of the Wakf Act, 1995, imposes an express bar, making the plaint liable to be rejected in limine.

4. The plaintiff has claimed to be the absolute owner of the suit property. However, his title over the property deserves to be adjudicated during the course of trial. The 1st defendant in the suit does not dispute that the plaintiff is the lessor and the appellant/27th defendant is stated as sub-lessee in the plaint. However, with reference to the grounds raised in the application seeking rejection of the plaint, the learned Single Judge considered the right of the appellant/27th defendant in paragraph 43 of the order impugned. The learned Single Judge made a finding that the appellant had been impleaded in the suit as



a defendant in the year 2010 and he has no independent right of possession. He

had been inducted as a sub-lessee by the 1st defendant in the suit. The appellant

has suddenly woken up to carve out propositions that would protect their interest and delay the smooth progress of the case.

5. In the context of the above finding, this Court asked the appellant whether any documents are available to establish the sub-lease. However, the appellant was unable to produce any document or evidence confirming their status as a sub-lessee, or about the period of sub-lease, or other details relating to sub-lease. In the absence of any such right established by the appellant/27th defendant, the learned Single Judge exercised restraint from forming an opinion that the plaint is to be rejected at the initial stage. When the person filing an application seeking rejection of plaint, at the first instance, he has to establish his rights and grounds for rejection.

6. The scope of rejection of plaint is limited under the Code of Civil Procedure and cannot be expanded through elaborate adjudication of triable



issues. Even, in case of doubt, it must be left open for the Trial Court to try the

issues independently for the purpose of crystallizing the rights of the respective parties. Courts are expected to be cautious, while considering the application seeking rejection of plaint under order VII Rule 11(d) CPC.

7. In the present case, the only ground emphasized by the appellant is that there is an express bar under Section 51 of the Wakf Act. However, the appellant has not established his rights regarding possession of the suit property.

8. That being so, the application filed seeking rejection of plaint was rightly rejected by the learned Single Judge. The learned Single Judge has arrived at a conclusion that the issues raised are triable and should be independently adjudicated before the Trial Court between the parties.

9. That apart, the suit for recovery of possession and payment of arrears of rent was instituted by the owner of the suit property in the year 2010 and the appellant filed the application seeking rejection of plaint in the year 2025, after



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a lapse of 15 years from the date of institution of the suit. Thus, it is apparently clear that the application seeking rejection of plaint has been instituted to prolong and protract the civil suit, which cannot be encouraged by this Court.

10. This Court finds no infirmity or perversity in respect of the findings made in the order impugned and consequently, the impugned Application No.378 of 2025 in C.S.No.574 of 2010 dated 25.07.2025 stands confirmed and the Original Side Appeal is dismissed. Further, this Court requests the Trial Court to expedite the trial, and dispose of the suit as expeditiously as possible. The connected Miscellaneous Petition is closed. There shall be no order as to costs.

(S.M.SUBRAMANIAM J.)(C.SARAVANAN J.)

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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