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C.R.P. NO.3743 OF 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDER RESERVED ON : 04 / 12 / 2025

ORDER PRONOUNCED ON: 24 / 02 / 2026

CORAM:

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.R.P. NO.3743 OF 2023

AND

C.M.P. NO.23335 OF 2023

1.Ms.Vembuli,
W/o.Mr.Selvaraj Pillai,
No.42, Sanjay Gandhi Nagar,
2nd Cross Street, Anakaputhur,
Chennai – 600 070.

2.P.Thulasipillai,
S/o.Mr.Ponnusamy Pillai,
No.61, Panaiyur Village and Post,
Cheyyur Taluk,
Changalpattu District – 603 302.

... Petitioners/Defendants

Vs.

Mr.Arumugam,
S/o.Mr.Kuppan,
Panaiyur Village and Post,
Cheyyur Taluk,
Changalpattu District – 603 302.

...Respondent/Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, 1950, praying to strike off the plaint in O.S. No.25 of 2023 on the file of the District Munsif cum Judicial Magistrate Court, Cheyyur.



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For Petitioners : Mr.R.Suriya Prakash
For Respondent : Mr.S.Sriram
for Mr.K.Govi Ganesan

ORDER

This Civil Revision Petition is filed under Article 227 of the Constitution of India, 1950, praying to strike off the plaint in O.S. No.25 of 2023 on the file of 'the District Munsif cum Judicial Magistrate Court, Cheyyur' [hereinafter referred to as 'Trial Court'] by the Defendants therein.

2. The Revision Petitioners herein are the Defendants and the Respondent herein is the Plaintiff in the Suit in O.S. No.25 of 2023. For the sake of convenience, the parties will be referred to as per their array in the Original Suit.

3. The Plaintiff filed the Suit seeking a permanent injunction against the Defendants. The case of the Plaintiff is that he purchased the Suit Property from Subbarayapillai, Ellappillai and Kuppammal *vide* registered Sale Deed dated May 15, 2002. The vendors of the Plaintiff were entitled to the Suit Property as their ancestral entitlement. Ever since the purchase, the Plaintiff is in peaceful possession and enjoyment of the Suit Property.

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The Plaintiff put up construction and resided in the Suit Property and also paid House tax and electricity consumption charges. According to the Plaintiff, the Defendants are strangers to the Suit Property and they made an attempt to interfere with his peaceful possession and enjoyment of the Suit Property on May 19, 2023. Hence, the Plaintiff filed the Suit seeking a permanent injunction restraining the Defendants, his men, agents, servants, legal representatives and heirs from in any way interfering the Plaintiff's peaceful possession in the schedule mentioned property.

4. Mr.R.Suriya Prakash, learned Counsel appearing for the Revision Petitioners / Defendants would submit that the present Suit in O.S. No.25 of 2023 is barred under Order II Rule 2 of 'the Code of Civil Procedure, 1908' ['CPC']. He would further submit that another Suit in O.S. No.35 of 2022 is pending before the Trial Court against second Defendant herein. The Suit Property therein and the Suit Property described in the present Suit in O.S. No.25 of 2023, are one and the same. A Civil Revision Petition in C.R.P. No.3714 of 2022 was preferred by second Defendant herein seeking to reject the plaint in O.S. No.35 of 2022 and a stay was granted in favour of second Defendant herein in the Civil Revision Petition. With a

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view to nullify the effect of the stay granted, the present Suit has been instituted. The present Suit is an abuse of process of law. Accordingly, he would pray to allow this Civil Revision Petition and to strike off the plaint in O.S.No.25 of 2023.

5. Per contra, Mr.S.Sriram learned Counsel for Mr.K.Govi Ganesan learned Counsel on record for the Respondent / Plaintiff would submit that the Suit Property in O.S. No.35 of 2022 and that in O.S.No.25 of 2023 though situate in the same survey number are different from each other. Further, the cause of action are different in both the Suits. Hence, the Suit is not barred under Order II Rule 2 of CPC. Accordingly, he would pray to dismiss the Civil Revision Petition.

6. This Court has considered both sides' submissions and perused the plaints in O.S.No.25 of 2023 and O.S.No.35 of 2022 on the file of the Trial Court. The present Suit in O.S.No.25 of 2023 is filed by Plaintiff seeking a permanent injunction against the Defendants. O.S.No.35 of 2022 was filed by the Plaintiff seeking permanent injunction against the second Defendant herein and also for a declaration that a Cancellation Deed mentioned thereof is invalid.

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7. The Suit Properties in O.S.No.25 of 2023 consist of an extent of 12 Cents within specific four boundaries and another extent of 10 cents within specific four boundaries, both in the same Survey No.60/7. To be noted, the new survey numbers are 60/7B and 60/7D respectively. On the other hand, the Suit Properties in O.S. No.35 of 2022 are an extent of 41 Cents situate in Survey No.60/7A2 and another extent of 10 Cents in Survey No.60/7A4. Though the suit properties in both the Suits are situate in the same survey number which is Survey No.60, their sub-divisions are different. The properties are different from one another. Thus, the contention of the Revision Petitioners that the Suit Properties in both the Suits are one and the same does not hold up under scrutiny.

8. According to the Plaintiff, he purchased the Suit Properties vide Sale Deed dated May 15, 2002 and put up construction and paid House tax and electricity consumption charges. As the Defendants disturbed his peaceful possession and enjoyment of the Suit Properties on May 19, 2023, he filed the present Suit for permanent injunction. As per the plaint averments in O.S. No.35 of 2022, the said Suit was filed as the second Defendant herein forcibly obtained a Cancellation Deed from the Plaintiff

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and as the second Defendant herein interfered with Plaintiff's possession of the Suit Property therein on June 24, 2020 and on July 25, 2020. Hence, the Plaintiff sought for permanent injunction and declaration that the Cancellation Deed is invalid in the Suit in O.S. No.35 of 2022. Further, in the Plaintiff traces his title to the Suit Properties herein *vide* Sale Deed dated May 15, 2002, whereas in the Suit in O.S. No.35 of 2022, the Plaintiff traced his title *vide* a different Sale Deed dated February 20, 1994. On comparison of the plaint in both the Suits, this Court is of the view that both the Suits are filed on different cause of action and hence, the present Suit is not barred under Order II Rule 2 of CPC.

9. The Hon'ble Supreme Court in ***T.Arivandandam -vs- T.V.Satyapal*** reported in (1977) 4 SCC 467 has held that the Trial Court shall nip at bud vexatious Suits filed without any clear right to sue under Order VII Rule 11 of the Code of Civil Procedure, 1908, if the grounds stipulated therein are satisfied. It was further held that when by way of clever pleadings an illusion of cause of action is created, the Trial Court must play an active role and shoot down such cases at the time of first hearing by examining the parties under Order X of CPC.



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10. Further, this Court deems fit to cite here the Judgment in ***K.Valarmathi -vs- Kumaresan***, reported in ***2025 SCC Online SC 985***, wherein the Hon'ble Supreme Court cautioned that the supervisory power of High Court under Article 227 of the Constitution of India, 1950 must be used sparingly. It was further held that the statutory scheme under Order VII Rule 11 of Code of Civil Procedure, 1908 cannot be circumvented by invoking the High Court's supervisory jurisdiction under Article 227 of the Constitution of India, 1950 to entertain a plea for rejection of the plaint, unless the facts and circumstances really warrant such interference to prevent grave injustice. Relevant portion reads as hereunder:

'8. Power of the High Court under Article 227 is supervisory and is exercised to ensure courts and tribunals under its supervision act within the limits of their jurisdiction conferred by law. This power is to be sparingly exercised in cases where errors are apparent on the face of record, occasioning grave injustice by the court or tribunal assuming jurisdiction which it does not have, failing to exercise jurisdiction which it does have, or exercising its jurisdiction in a perverse manner.



9. Essence of the power under Article 227 being supervisory, it cannot be invoked to usurp the original jurisdiction of the court which it seeks to supervise. Nor can it be invoked to supplant a statutory legal remedy under the Civil Procedure Code, 1908. For example, existence of appellate remedy under Section 96 of the Code operates as a near total bar to exercise of supervisory jurisdiction under Article 227.

10. Civil Procedure Code is a self-contained Code and Order VII Rule 11 therein enumerates the circumstances in which the trial court may reject a plaint. Such rejection amounts to a deemed decree which is appealable before the High Court under Section 96 of the Code. This statutory scheme cannot be upended by invoking supervisory jurisdiction of the High Court under Article 227 to entertain a prayer for rejection of plaint.'

11. In light of the afore-cited Judgments, if the present Suit is really vexatious or an abuse of process of law, the Defendant can very well approach the Trial Court under Order VII Rule 11 of Code of Civil Procedure, 1908 and seek rejection of plaint, or he can put forth their case during the 1st hearing before the Trial Court urging to shoot down the Suit.



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Without adopting such a method, directly the Defendant has approached this Court under Article 227 of the Constitution of India, 1950, that too without filing the plaint documents and the same cannot be entertained. Moreover, this Court is of the *prima facie* view that there is a triable issue in this Suit and hence, trial is necessary. In these circumstances, given that the cause of action and the Suit Properties in both the Suits are not one and the same and having due regard to afore-cited case laws, this Court is of the view that this is not a fit case to exercise the power under Article 227 of the Constitution of India, 1950, to strike off the plaint. There is no merit in this Civil Revision Petition.

12. Resultantly, this Civil Revision Petition is dismissed. Considering the facts and circumstances of the case, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes
Speaking Order : Yes
Neutral Citation : Yes
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R. SAKTHIVEL, J.

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To

The District Munsif cum Judicial Magistrate Court
Cheyyur.

PRE-DELIVERY ORDER MADE IN
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