

IN THE COURT OF ADDITIONAL DISTRICT JUDGE, KRISHNAGIRI

**Present: Thiru.V. Damodaran, B.L.M.,M.L.,
Additional District Judge, Krishnagiri**

Wednesday, the 06th day of November, 2024

I.A.No.4/2024 in OS.No.170/2022

CNR.No.TNKI01-001141-2022

1) P.Ghouse Basha,

2) S.Suber,

3) A.H.Manzoor Basha,

4) F.Mohammed Abrar,

5) G.Sameena,

6) G.Salman,

7) Ameen Sheik,

.... Petitioners/

Defendants 1, 7, 9, 12 to 15

/Versus/

1) C.Muralithara,

.... Respondent/ Plaintiff,

2) N.Ramachandran,

3) N.Sridharan,

4) V.Madhesan,

5) R.Sekar,

6) N.Saminathan,

7) K.R.Vinoth Kumar,

8) R.Chandiran,

9) K.Narayanana Kumar,

10) The Sub Registrar,

Veppanapalli,

Krishnagiri Taluk and District.

.... Respondents/

Defendants 2 to 6, 8, 10, 11 and 16

This petition was coming up before me finally on 25.10.2024 in the presence

of Thiru. K.B.Gopalakannan, Advocate appearing for the Petitioners and Thiru.R.K.Ravishankar, Advocate appearing for the Respondents, and upon hearing the arguments of Petitioners and Respondents side and on perusal of available records, and having stood over for consideration till date, this Court deliver the following:-

ORDER

The petition filed under Order VII Rule 11 (a) and (b) of CPC r/w Sec. 151 of C.P.C. to reject the plaint.

2.The averments contained in the petition is as follows:-

i) The petitioner is the 1st defendant in the suit. The 1st respondent/ plaintiff has filed present suit without any cause of action, and fabricating the receipt which is mentioned in serial No.1 of the list of documents in the plaint for a sum of Rs.1.15 Crores and the past dated cheque, the present suit has been filed. The details of the cheque in the said receipt are filed by the respondent/ plaintiff and it is in had written without any counter signature. Mere reading of the last para in 1st page of the said receipt is enough to come to a conclusion that the entire sale consideration was paid by the petitioner by way of cash and hence there is no necessity to issue alleged cheque to the respondent/ plaintiff. Moreover, the respondent/ plaintiff has not produced the original receipt and the receipt produced is only a forged one.

ii) The petitioner further submit that this petitioner has got land business dealing with 1st respondent even prior to this subject matter of suit property. In

view of the receipt dated 24.12.2020 issued by the 1st respondent/ plaintiff, a registered power of attorney executed by 1st respondent/ plaintiff in favour of the petitioner and same was in Doc.No.3651/2020 with Sub Registrar, Veppanapalli a said document is valid one and same can never be cancelled by any circumstances. After execution of said General Power of Attorney in favor of petitioner, these petitioner have executed Sale Deed to the defendants 2 to 15 through 12 different Sale Deeds and the 1st respondent/ plaintiff was waiting till 09.01.2021 for collection of cheque amount. The above said averment in utter false as the entire sale consideration was already paid by way of cash as mentioned in last para of 1st page of the very same receipt and hence the petitioner not even liable to tender any true accounts to the respondent/ plaintiff.

iii) The plaint Doc.No.3 is fabricated and the false document filed for the purpose of misleading this Hon'ble Court. The original receipt which will amply prove that the 1st respondent/ plaintiff has filed the present suit with fabricated receipt dated 24.12.2020. The respondent/ plaintiff has sought for declaratory relief, that the General Power of Attorney is cancelled without filing a suit for declaration of title of the property. In order to evade payment of court fee, the respondent/ plaintiff has paid court fee for the alternative relief and purposefully failed to value the entire property on the present market value and pay appropriate court fee, that the alternative relief is not at all maintainable. Hence, the respondent/ plaintiff has undervalued the relief claimed in the plaint, as the relief sought for in the suit amounts to declaration of title. The respondent/ plaintiff has

nothing to do with the suit property, but an act of fraud playing upon before the court, the plaintiff has approached this court, with unclean hands with malafide intention, as such the present application was filed to reject the plaint.

3) The 1st respondent filed counter is as follows:

i) The 1st respondent filed counter stating that, the petitioner reject the plaint filed the petitioner is false, frivolous and vexatious and not maintainable either in law or an facts averred, so liable to be dismissed in limine. The plaint cannot be rejected for any reasons, except contemplated in the provisions laid down in Order VII Rule 11 of CPC. By which the claim of rejection of plaint to be filed only when the suit/ plaint is against to any special enactments or barred by law to file a civil suit. But this suit is only civil in nature. Further for filing of this civil suit there is no any legal restriction by any special Acts. So, this civil suit is maintainable as per C.P.C.

ii) Already the petitioners / defendants have filed their written statement and for the said same reason now filed this petition unnecessarily without conducting the trial. For the reasons which are contained in the written statement. No suit to be rejected, for the pleadings in written statement. The petition just reproduced the written statement avernments, and nothing has been stated how the suit to be rejected and on what grounds it has been rejected was not stated, as such prayed for dismissal of the present application.

4) Point for consideration:

Whether the petition filed by the petitioners Order VII Rule 11 (a) and (b) of CPC r/w Sec. 151 of C.P.C. has to be allowed or not?

5) Heard Both sides,

6) Point:-

i) The written arguments of both the counsels has been filed, perused the documents filed by the plaintiff in this case, written arguments both the sides were perused. The petition is filed under Order VII Rule 11 (a) and (b) of CPC r/w Sec. 151 of C.P.C. For the benefit understanding Order VII Rule 11 (a) and (b) of CPC is reproduced, which is as follows: *The plaint shall be rejected in the following cases:-*

(a) where it does not disclose a cause of action;

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law;

(e) where it is not filed in duplicate;

(f) where the plaintiff fails to comply with the provisions of rule 9:

Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court,

for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.

ii) Ongoing through the plaint it is clear that, the plaintiff has challenged the General Power of Attorney and for that declaratory relief was sought for and consequential relief also sought by the plaintiff herein, and permanent injunction restraining by the defendants 1 to 15 not to alienate the suit property till the cases disposed of. The respondent/ plaintiff in this case, has attacked Doc.No.3 which was filed in support of the plaint. According to the petitioner/ defendants Doc.No.3 which was filed in support of the plaint was fabricated with intention to file a false case as against the defendants herein. According to the petitioner / defendants the said Doc.No.3 stated in the plaint was manipulated by the respondent / plaintiff in this case, and the present suit has been filed.

iii) Whether the said document is manipulated or whether it is originally the same has to be decided only in the trial and not by way of enquiry, whether the said document filed by the respondent / plaintiff is true cannot be decided, the said defense made by the petitioners/ defendants can be very well be agitated in the trial, and in the enquiry it cannot be decided. Again it was stated by the petitioner did not ask for the correct relief in this case and it was not valued properly. The plaint ought to have filed declaration, and in order to evade the payment of court fees, the respondent prayed to alternative relief court fees alone. The plaintiff has

got right to chose his relief, what relief to be claimed by the plaintiff has to be decided by the plaintiff and the defendants cannot question that the respondent / plaintiff has ask for the any specific relief in his suit. This court of the view that those matters can be agitated, that Doc.No.3 is a manipulated, fabricated are to be decided only at the time of trial, and not at the time of enquiry, and what is the relief to be claimed has to be decided only by the plaintiff, and the defendants has no business at all with respect of prayer sought by the plaintiff in this case, and this court sees the merit in the application, accordingly this petition dismissed.

In the result, this petition is dismissed. No costs.

Dictated to the Stenographer, directly typed by her, corrected and pronounced by me in the open court today this the 06th day of November, 2024.

Sd/-V.Damodaran,
Additional District Judge,
Krishnagiri.

Annexure: Nil

Sd/-V.Damodaran,
Additional District Judge,
Krishnagiri.

// True copy//

Additional District Judge,
Krishnagiri.