

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF
PADMANABHAPURAM.

Present: Thiru.A.Maruthupandi, B.Com., B.L.,
Additional District Munsif (Full Additional Charge).

Monday, the 26th day of September 2022

I.A. No.02 of 2021

in

O.S. No.26 of 2018

M.Rosely Charlet

..Petitioner/Defendant

/ Vs. /

The Executive Officer
Verkilambi Town Panchayat

.. Respondent/Plaintiff

This petition is coming before me for final hearing, in the presence of Mr.G.Veludhas, learned counsel for the petitioner and Mr.W.Robert Singh, learned counsel for the respondent. Upon hearing the counsel on both side and on perusal of the records stood over for consideration till this day, this court passed the following :-

ORDER

This petition is filed under Order VII Rule 11 and Section 151 of the Civil procedure Code to reject the plaint.

2. THE AVERMENTS IN THE PETITION IN BRIEF :-

The original suit is not maintainable in law and on facts. The suit is

false, frivolous, vexatious and fraudulent and it is abuse of process of this court. There is willful and deliberate suppression of material facts. The Respondent/plaintiff has not come before this court with clean hands. The respondent/plaintiff has no locus standi to file the suit. The suit is filed by way of gambling on litigation with a ulterior motive to black- mail and harass the defendant and to extort money from her. The suit is bared by limitation. According to the plaint, the dues to the defendant started on 17.04.2014 as per notice No.12, but the suit was filed after 3 years. Hence the suit is not maintainable. The plaint is liable to be rejected. The address of the respondent/plaintiff as stated in the long cause title of the plaint it is stated the respondent/plaintiffs office at Verkilambi, meycode village. But in fact, the office of the respondent/plaintiff situates at kallankuzhi, kallankuzhi post, Kumarakudi Village, Thiruvattar Taluk, Kanyakumari district. Where in cause of action arise.

ii) The address of the defendant as stated in the long cause title of the plaint is not correct. In the plaint, it is stated that the petitioner/defendant residing in Meycode village. The respondent/plaintiff is not entitled to get any relief, as stated in plaint. The suit is filed for recovery of money is not maintainable without seeking a prayer for declaration of annual Tax of the petitioner/defendant building. The real dispute arose in between the parties is

with regard to the fixation of the annual tax for the building of the petitioner/defendant. Since the Annual Tax amount for the building of the defendant is under dispute the suit for recovery of money is not maintainable.

iii) The suit is a vexatious and the same is instituted intending to get wrongful gain from the defendant. The petitioner/defendant states that on 19.03.2016 she had preferred an appeal to the president Verkilambi Town Panchayat with regard to the fixation of the annual Tax for the defendants building and the same is not yet disposed. Since the petitioner/defendant has already preferred an appeal before the Appellate authority of the panchayat Challenging the amount fixed as annual Tax for the petitioner/defendants building.

iv) This civil court having no jurisdiction to try this case without the hearing of the appellate authority of panchayat board. The respondent/plaintiff has no cause of action for the suit. The suit is liable to be rejected for want of cause of action. The respondent/plaintiff has come to the court with false or vexatious claim and misleading this court without any legal ground, hence the petitioner/defendant is to be exemplary compensated. The plaint is liable to be rejected with compensatory cost of the petitioner/defendant this affidavit to reject the plaint . Hence this petition

is allowed.

3. THE AVERMENTS IN THE COUNTER FILED BY RESPONDENT IN BRIEF :-

The petition is not maintainable and liable to be dismissed with costs. Averments contrary to that in the written statement are untenable and unentertainable. There is no motivation or blackmail against the petitioner/defendant. The petitioner/defendant has no cause of action to file this petition. There is no prima facie case for the petitioner/defendant. It is only for allegation sake. The petitioner/defendant filed this petition with ulterior motive to escape from the payment tax for which the respondent/plaintiff is lawfully entitled to recover for the petitioner/defendant. The suit is in time. There is no limitation. There is no dispute regarding the annual tax amount. The stated there are imaginary one, such a claim is put forward without any basis. The real dispute is suppressed.

ii) The petitioner/defendant is guilty of suppression and misrepresentation of the real facts. The petition is not supported by least of good faith. The respondent/plaintiff has no knowledge about the appeal given by the petitioner/defendant before the president. No documentary evidence is given by the petitioner/defendant, since her contention are imaginary one. The

respondent/plaintiff is always ready to conduct the case with necessary documents. Since the petitioner/defendant has no merits in her case, she is filing such execution application to waste the valuable time of this court. Hence, this petition is liable to be dismissed.

4. POINTS FOR DETERMINATION : -

Whether the petitioner/defendant is entitled to the relief as prayed for or not?

5. DISCUSSION AND ANALYSIS : -

Both side Heard. Records perused carefully.

i) The learned counsel for the petitioner/defendant argued that the suit is filed for recovery of money. According to plaint and as per notice No.12 the annual tax dues started on 17.04.2014, but this suit has been filed after three years i.e., on 23.01.2018, hence it is barred by limitation and further argued that the respondent/plaintiff's office situated at kallankuzhi, kallankuzhi post, Kumarakudi Village, Thiruvattar Taluk, Kanyakumari District, but the long cause title of plaint states that the respondent/plaintiff's office is situated at Verkilambi, Meycode village, hence the petitioner/defendant has no "knowledge" about the village and moreover the petitioner/defendant is residing at pulithoppuvilai, Kallankuzhi Post, Kumarankudi Village, Thiruvattar Taluk, Kanyakumari District. But address

of the petitioner/defendant stated in the long cause title is not a correct one, hence no cause of action arose in the said village i.e, meycode village. So, the plaint is liable to be rejected for want of cause of action.

ii) The learned counsel for the respondent/plaintiff argued that the suit has been filed intime and cause of auction arose at Verkilambi Town panchayat wherein the petitioner/defendant got a building approval and the said verkilambi Town panchayat is situated within the jurisdiction of this Hon'ble court and the petitioner/defendant also admitted that she got approval to construct a house in pulithoppuvilai which comes under the jurisdiction of this Hon'ble court and further argued that both kulkulam and Thiruvattar Taluk comes under the jurisdiction of this Hon'ble court and hence the cause of action arose in verkilambi Town Panchayat which is given an approval to the petitioner/defendant for constructing a house in pulithoppuvillai, hence for the said reasons this petition is liable to be dismissed.

iii) The petitioner/defendant states that as per the notice No.12 given by the respondent/plaintiff the annual tax dues for the building starts on 17.04.2014, but this suit has been filed on 23.02.2018 i.e., after three years, hence the suit is barred by limitation. According to notice dated 11.01.2018 the petitioner/defendant has to pay a building tax arrears for the year 2014-2015, 2015-2016, 2016-2017 and 2017-2018, so the limitation will start only

after the year 2017 -2018, not from the due date 17.04.2014, because of the petitioner/defendant has to pay the said arrears also for the year 2017-2018, hence the contention of the petitioner/defendant with regard to limitation is not applicable in the nature and fact of the case.

iv) The petitioner/defendant further contented that the respondent/plaintiff's office is situated at kallankuzhi, kallankuzhi post, kumarankudi village, Thiruvattar Taluk, Kanyakumari District, but the long cause title of plaint speaks the address of the respondent/plaintiff that the respondent/plaintiff's office is situated at verkilambi, meycode village, hence the petitioner/defendant has no knowledge about the said village i.e., meycode village, and moreover further contented that actually the petitioner/defendant is residing at pulithoppuvilai, kallankuzhi Post, Kumarankudi village, Thiruvattar Taluk, Kanyakumari District, but the long cause title of the plaint speaks the address of the petitioner/defendant that pulithoppuvilai, Meycode village, kallankuzhi, kallankuzhi Post, Kalkulam Taluk, Kanyakumari District, so the said address is not a correct one, hence no cause of action arise in the said "meycode Village".

v) According to petitioner/defendant cause of action not arisen at "Meycode Village" but arisen at "Pulithoppuvilai". The long cause title of the

plaint speaks not only about the "Meycode village" but also speaks about the "Pulithoppu vilai" in which the petitioner/defendant constructed a house which is situated within the jurisdiction of this court and moreover the petitioner/defendant got building approval in Verkilambi Town Panchayat which is also situated within the jurisdiction of this court and the both kalkulam and Thiruvattar Taluk also comes within the jurisdiction of this court. Hence, the cause of action arose at pulithoppu Villai as well as Verkilambi Town Panchayat when approval for building construction is given by the verkilambi Town panchayat and after that on the basis of an approval the petitioner/defendant is constructed a house in pulithoppu vilai.

vi) Moreover, on perusal of notices and requisition issued on behalf of the petitioner/defendant by the counsel of petitioner/defendant and given by the son of petitioner/defendant it is found that the cause of action arose at "pulithoppuvillai" in which the petitioner/defendant constructed a house. The petitioner/defendant is admitted through copy of an appeal dated 19.03.2016, a legal notice dated 19.03.2016, a reply notice dated 22.01.2018 and written statement filed by the petitioner/defendant in this case that the petitioner/defendant got building approval from verkilambi Town Panchayat for constructing a house in "Pulithoppuvilai" and not only the petitioner/defendant admitted, but the son of petitioner/defendant namely

S.H.R.Richard Kingsly Kumar also admitted through a requisition letter for exemption for house tax dated 17.12.2016 through lieutenant colonel officiating commanding officer namely Mr.Gaurav Narang that a building is constructed in "pulithoppuvilai" and sought for house tax exception, hence the contention of the petitioner/defendant with regard to non cause of action is not applicable in the nature and fact of the case. In the light of discussion made Supra, this court come to conclusion that the petitioner/defendant is not entitled to the relief as prayed by her.

6. DECISION :-

In the result, petition is dismissed.

Dictated to the Steno-Typist directly, typed by her in computer, corrected and pronounced by me in open court, on this 26th day of September, 2022.

Additional District Munsif (FAC),
Padmanabhapuram.

ADMC, Padmanabhapuram.

I.A.No.01/2020 in O.S.No.26/2018

Draft/Fair Order:

Dt: 26.09.2022.