

IN THE COURT OF PRINCIPAL DISTRICT MUNSIF, THIRUMANGALAM

Present: Thiru. C.Dineshkumar, M.A., B.L.,

Principal District Munsif, Thirumangalam

Friday 2nd day of September 2022

I.A.No.55/2018

in

O.S.537/2013

M.P.Velraja

..... Petitioner / 1st Defendant

-Vs-

1. Venkatesan

2. Selvam

3. Krishnamoorthy

4. Muthukumar

5. Vinayagamoorthy

6. Prakash

7. Vijay

..... Respondents / Plaintiffs

This Petition coming on 29.07.2022 before me for final hearing in the presence of Counsel Thiru.K.Renganathan, Advocate for the Petitioner and Thiru.M.Ponnambalam, Advocate for the Respondents and upon perusing the Petition, counter and the entire materials available on the records before this Court and having stood over for consideration till this day, this Court delivers the followings

ORDER

This Petition has been filed under Order 7 Rule 11 r/w Section 151 of C.P.C. to Reject the Plaint.

2. The Counsel for the Petitioner/ 1st Defendant argued that this Suit has to be rejected on the grounds that the Suit has not been valued properly and the value of the Suit property is Rs.2,00,37,600/- and the Suit has not been valued as per the guideline value and the Hon'ble Sub Court, Thirumangalam had executed a sale deed for the Suit property infavour of this Petitioner and therefore, he has become the Title holder of the Suit property and therefore, the Respondents/ Plaintiffs should have filed a suit

for Declaration and therefore, this suit for Permanent Injunction is not maintainable and the Respondents/ Plaintiffs should have impleaded himself in the E.P.No.13/2011 of the Hon'ble Sub Court, Thirumangalam and this Court does not have the Power of canceling the order of Hon'ble Sub Court, Thirumangalam and the Petitioner had executed a sale agreement with some third persons and they have not been impleaded in this Suit and therefore, this Suit is not maintainable and it has to be rejected.

3. On the other hand, the Respondents/ Plaintiffs' side contended that the execution proceedings were not known to the Respondents/ Plaintiffs and this suit has been filed for the relief of Permanent Injunction and therefore, the suit property need not to be valued as per the guideline value and the Respondents/ Plaintiffs are not a party to the suit O.S.No.963/2010 and therefore, the Respondents/ Plaintiffs cannot be expected to impleaded themselves in the execution Petition and trial has been commenced in this case and therefore, this petition is not maintainable and this petition has been filed to prolong the matter and thus, this petition has to be dismissed.

4. The point for determination is that whether the application has to be allowed or not.

5. Heard both the sides and the records were perused carefully.

6. The first contention of the Petitioner / 1st Defendant is that this Suit has not been valued properly and the value of the Suit property is Rs.2,00,37,600/- and the Suit has not been valued as per the guideline value. However, the other side argued that this suit has been filed for the relief of Permanent Injunction and therefore, the suit property need not to be valued as per the guideline value.

7. On perusal of records, it could be seen that this Suit has been filed for the reliefs of Permanent Injunction and thus, this Suit has been valued as per Section 27(c) of Tamil Nadu Court Fees and Suit Valuation Act 1955. It is to be noted that

Section 27(c) of Tamil Nadu Court Fees and Suit Valuation Act 1955, provides that the fee shall be computed on the amount at which the relief sought is valued in the Plaint or one thousand rupees, whichever is higher.

8. As the Suit has been filed for Permanent Injunction alone, it can well be valued under Section 27(c) of Tamil Nadu Court Fees and Suit Valuation Act 1955 by valuing the Suit property at Rs.1000/-. Therefore, the Respondents/ Plaintiffs have valued the Suit property at Rs.1000/- and the appropriate Court Fee has been paid by the Respondents/ Plaintiffs. Therefore, the contention of the Petitioner side that the Suit should be rejected on the ground of insufficient Court Fee cannot be accepted.

9. The second contention of the Petitioner is that, the Petitioner has become the owner of the Suit property by way of sale deed executed by the Hon'ble Sub Court, Thirumangalam and therefore, the Respondents ought to have filed a Suit for declaration and therefore, mere Suit for Permanent Injunction is not maintainable and the sale deed executed by the Hon'ble Sub Court has been marked as Ex.P1.

10. As far as declaration is concerned, the Plaintiff must have the knowledge regarding the dispute in title before filing of the Suit and it can be decided only after conducting the trial. It is a settled proposition that the averments of Plaint alone can be looked into, at the time of deciding the Petition for rejecting the Plaint. Therefore, mere filing of the sale deed cannot prove anything regarding the knowledge of the Respondents/ Plaintiffs.

11. The other contention of the Petitioner is that the Respondents had not taken any steps to impleaded themselves in the O.S.No.963/2010 and the execution proceedings in E.P.No.13/2011 and therefore, this Suit is not maintainable. Admittedly, the Respondents/ Plaintiffs are not parties in the O.S.No.963/2010 and therefore, they may not have the knowledge regarding the proceedings of O.S.No.963/2010 and E.P.No.13/2011 till disposal. Therefore, they can not be expected to be impleaded themselves in the Suit and execution proceedings.

12. It has been further contended that this Court has no power to cancel or alter the order of the Hon'ble Sub Court and therefore, this Suit has to be rejected. As discussed earlier, this Suit has been filed only for Permanent Injunction against the Defendants and therefore, the question of canceling or altering the order of the Hon'ble Sub Court does not arise.

13. It has been further contended that the Petitioner has executed a sale agreement to third persons and they have not been added as a party to this Suit. It cannot be decided at this stage that the Respondents / Plaintiffs have knowledge about the sale agreement or not and it can be decided only at the course of the trial.

14. Therefore, all the grounds taken by the Petitioner/ 1st Defendant have not helped him in any way to reject this suit. Hence, this court is of the opinion that a fair and proper opportunity to be given to the Respondents / Plaintiffs to let evidence on their behalf and prove their case.

At the upshot, this petition is dismissed. No cost.

Dictated by me to the Steno typist directly in the office computer and the same was corrected by me and pronounced in the open Court on this 2nd day of September, 2022.

(Sd.C.Dineshkumar)

Principal District Munsif
Thirumangalam

Annexures:

1. Petitioner's side Witness : Nil

2. Petitioner's side Documents :

Ex.P1. Certified copy of Sale deed bearing Register No.2803/2013.

Ex.P2. Proceedings of Special Deputy Collector in S.R.No.516/13
dt.11.12.2017

3. Respondents' side Witness : Nil

4. Respondents' side Documents : Nil

Principal District Munsif
Thirumangalam.

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Order
D.D.02.09.2022.