

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI

PRESENT: Tmt. **V. Vannamalar**, M.L., PGDIPR., PGD in CrI. & Fr.Sc.,
District Munsif, Ponneri.

Thursday, the 25th day of August 2022

I.A.No.3/2022

in

O.S.No.11/2022

N. Varadharajan

...Petitioner/2nd Defendant

-Vs-

Rajkumar

...Respondent/Plaintiff

This petition came up before me for final hearing on 07.07.2022, in the presence of Mr. E. Prabhu, learned counsel for the petitioner/ 2nd defendant and Mr. V. Narayanan, learned counsel for the respondent/plaintiff. Upon perusing the entire case records and on hearing the arguments of both side counsels and having stood over for consideration till this date, this court delivers the following:

ORDER

This petition is filed by the petitioner under Order VII Rule 11 of Civil Procedure Code to reject the suit in O.S.11/2022.

2. Brief averments of the affidavit filed by the petitioner are as follows:

2.1. The petitioner is the 2nd defendant in the suit. The petitioner submits that the plaintiff has filed this suit for bare injunction as an interloper who is an utter stranger in respect of the suit schedule properties. The plaintiff's claim of the alleged lease through Babyammal without filing any material documents to show any alleged possession or alleged right or title either in favour of Babyammal or in favour of the plaintiff on the date of filing of the suit is not maintainable. The petitioner further

submits that the plaint does not disclose a cause of action as the sale deeds of the defendants in the suit were not at all under challenge.

2.2. The petitioner submits that the plaintiff had not impleaded Babyammal as party to the suit. The plaintiff did not claim any right under or through the petitioner or the other defendants in the suit. Further the alleged lease deed dated 05.11.2017 through which the plaintiff claims right is for a period of two years and the same is unregistered and not properly stamped and hence the same is a legally inadmissible document. No suit could be filed on the basis of an alleged unregistered and an unstamped lease deed. Further, even if the lease deed is admissible it is between third parties and without disclosing the right, title and the possession of the person who executed the alleged lease deed and also without filing documents in proof of title and possession on the date of the suit in favour of the alleged lessor, the suit cannot be maintained by the alleged lessee. Hence, the suit does not give rise to a right to sue or any cause of action on the plaintiff for bare injunction. Hence, the plaint is liable to be rejected.

3. Brief averments of the counter filed by the respondent are as follows:

3.1. The respondent submits that the petitioner and other defendants in the suit are claiming right to suit property through forged sale deed and forged pattas. The plea of the petitioner is that the deceased ancestor of their seller Subba Naidu has a valid title deed over suit property. All the documents relied on by the petitioner and other defendants in the suit are forged documents. Hence, this petitioner has no right to claim any right over the suit property based on the said forged documents. The claim of this petitioner is not at all maintainable before declaring that Subba Naidu is the absolute owner of the suit property.

3.2. Till date the Patta for the suit property is in the name of Thulasiammal only. The right of the respondent as lessee cannot be questioned or challenged on technical mistake of documentation as there are several lease deeds continuously executed

every year on the side of the respondent and the respondent undertakes to file such deeds if necessary. Hence, the respondent prays to dismiss this petition.

4. Neither the petitioner nor the respondent have placed any oral or documentary evidence before this court. Now, it is the paramount duty of the court to decide whether this petition is to be allowed or not?

5. Heard both side arguments.

6. The Petitioner is the 2nd defendant in the suit and the suit has been filed by the respondent / plaintiff seeking for a relief of Permanent Injunction as against the defendants therein from interfering with plaintiff's peaceful possession and enjoyment of the suit property. When the suit is posted for service of summons to the 12th defendant, this petition with a plea to reject the plaint has been filed by the 2nd defendant.

7. The petitioner contends that the plaintiff has filed this suit claiming alleged lease through Babyammal without filing any material documents to show any alleged possession or alleged right or title either in favour of Babyammal or in favour of the plaintiff on the date of filing of the suit. The petitioner further submits that the plaint does not disclose a cause of action as the sale deeds of the defendants in the suit were not at all under challenge. The petitioner further submits that to claim lease hold rights through Babyammal, the plaintiff had not impleaded Babyammal as party to the suit. Further the petitioner contends that the alleged lease deed dated 05.11.2017 through which the plaintiff claims right is an unregistered and not properly stamped document and is for a period of two years. Hence the same is a legally inadmissible document. Hence, the petitioner prays that this suit does not give rise to a right to sue or does not disclose any cause of action and hence the plaint is liable to be rejected.

8. On the other hand, the respondent submits that the all the documents relied upon by the petitioner and other defendants in the suit are forged documents. Hence, this

petitioner has no right of claim or any right over the suit property based on the said forged documents. The claim of this petitioner is not at all maintainable before declaring that Subba Naidu is the absolute owner of the suit property. Till date the Patta for the suit property is only in the name of Thulasiammal. Hence, prays for dismissal of the petition.

9. On careful consideration of the above, it is noted that the respondent / plaintiff has filed the suit stating that he as a lessee to one Babyammal is currently in possession of the suit property and also has filed a lease deed in support of his contention. The cause of action to file the suit was stated in the plaint as to interference with the plaintiff's possession and enjoyment of the suit property by the defendants on certain dates and hence he has filed the suit. Whether the cause of action mentioned in the plaint exist or not and the question as to the admissibility or relevancy of documents submitted by the plaintiff in the case are the issues to be considered only at the time of trial and the same requires detailed evaluation of evidence and the same cannot be decided at this interlocutory stage.

10. Considering the above discussions, this court concludes that this petition is devoid of merits and is not inclined to allow this petition.

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

Dictated by me to the steno-typist, who directly typed the same, corrected and pronounced by me in the open court, on this the 25th day of August 2022.

S.d./- V. VANNAMALAR
District Munsif
Ponneri

Both side documents and witnesses: Nil

S.d./- V. VANNAMALAR
District Munsif
Ponneri

Fair/ Draft Order
I.A.No.3/2022
O.S.No.11/2022
Date:25.08.2022
DMC,PNI.