



WEB COPY

Reserved on	10.07.2024
Pronounced on	31.07.2024

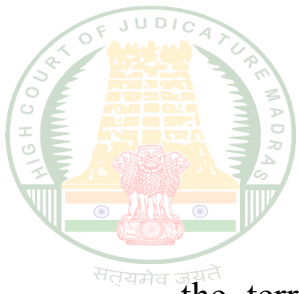
A.No.4825 of 2022
and A.No.2339 of 2024 and A.D.Nos.58388 to 58400 of 2024
in C.S.D.No.99888 of 2021

C.V.KARTHIKEYAN,J.

Application No. 4825 of 2022 has been filed to grant leave to sue the defendants 10, 26, 29, 42, 44, 72, 73, 75, 81 to 93 who are residing outside the jurisdiction of this Court.

2. Pending this application, the 26th defendant had died and his legal representative had been impleaded as 94th defendant. The 94th defendant is also residing outside the jurisdiction of this Court.

3. In the affidavit filed in support of this application, it had been stated that the suit had been filed seeking declaration of the title to the suit schedule property and for various other declaratory and consequential reliefs. It had been stated that originally the suit had been filed as an indigent person and permission was granted by an order of a learned Single Judge of this Court in A.No.1889 of 2022, dated 18.08.2022. It had been stated that several registered documents on the properties described in Schedule 'B' to Schedule 'F' are vitiated by fraud. It had been stated that the suit had also been filed seeking recovery of possession of the suit schedule properties. It had been further stated that all the suit schedule properties are situated within



WEB COPY

the territorial jurisdiction of this Court, but some of the defendants are residing outside the jurisdiction of this Court which required this application to be filed seeking leave to sue.

4. Notice had been directed to the said respondents against whom leave was sought. Counsels had entered appearance on their behalf and on behalf of the 47th defendant, A.D.No.58398 of 2024 had been filed and on behalf of the 28th defendant, A.D.No.58399 of 2024 had been filed and on behalf of the 70th defendant, A.D.No.58400 of 2024 had been filed, seeking to reject the plaint in C.S.D.No.99888 of 2021.

5. Additionally, the plaintiff had filed A.No.2339 of 2024 seeking to set aside the abatement caused due to the death of the 26th respondent. But however, that application will necessarily have to be closed, since the legal representatives of the 26th respondent had already been brought on record as the 94th respondent vide order in A.No.2340 of 2024, dated 19.06.2024. **Hence, the Application in A.No.2339 of 2024 stands closed.**

6. In view of the order of the learned Master while examining the application seeking leave to sue as an indigent person in the suit and also in view of the averments in the affidavit filed in support of the applications filed seeking to reject the suit, the Court necessarily has to venture into an examination of the averments in the plaint.



WEB COPY

7. The suit had been filed against 93 defendants. The plaintiff claimed the suit property measuring 12.53 acres in S.Nos.76/2 and 77 in Velachery Village in Saidapet, had been purchased by his father through a Court auction held by the Official Referee of the High Court on 10.12.1926 in C.S.No.561 of 1924. He was issued with a sale certificate. His father died on 03.10.1960 leaving behind the plaintiff, his elder brother and elder sister. The elder brother died on 02.07.1994 and his elder sister died on 07.10.2011 and her daughter also died. It is contended that his elder brother did not have any children. The plaintiff therefore claims that he is the sole heir of his father and represents his estate. It is also contended that his father had leased out the 'A' schedule property to the Madras Race Club by a registered lease deed dated 26.07.1927 originally for a period of 10 years and on expiry, for a further period of 10 years till 1946. The lease was not renewed thereafter.

8. The Madras Race Club had been impleaded as the 23rd defendant in the suit. It had also been stated that there is also a residential bunglaw in the said premises. It had also been stated that the Madras Race Club is enjoying the entire property and had also exploited the property commercially. The plaintiff stated that his father had created mortgage in favour of third parties and in favour of his mother in the year 1936. At the instance of the mortgagee, an Advocate Receiver had also been appointed by the High Court and when steps were taken to bring the property to auction under Section 69A of the Transfer of Property Act, the mother also instituted litigation to scale down the debts under the Madras Agriculturalist Relief Act. She was also extended benefits. But however, the Hon'ble Supreme Court had



set aside grant of such benefit in C.A.No.387 of 1956, by judgment dated 26.04.1961.

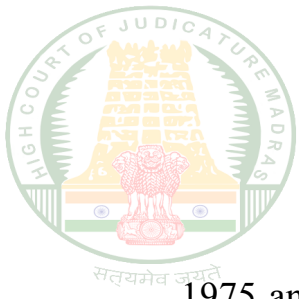
9. This would effectively mean that the efforts of the mother/ plaintiff's grandmother failed by the judgment delivered by the Hon'ble Supreme Court. Both his father and grandmother died before that decision of the Hon'ble Supreme Court. It had been stated that the legal heirs of the mortgagees then brought the property to public auction. Thereafter, one of the mortgagees died leaving behind the 5th and 7th defendants as his legal representatives. He had also executed a Will dated 09.08.1962. The 5th defendant had brought up the property for sale and the family of the plaintiff had filed A.No.1092 of 1974 which was dismissed by order dated 02.12.1974. The property was again brought for sale in the year 1975 and the brother of the plaintiff had filed A.No.1586 of 1975 and the High Court granted three months to settle the dues. This was not complied with. Therefore, again the property was sought to be brought for sale through the 8th defendant/ M/S.Murray & Company. The properties were actually sold on 12.11.1975 by exercising the right under the deeds of mortgage. The auction purchaser had nominated another individual and a deed of conveyance was executed on 04.12.1975 to the said nominee. The plaintiff stated that his son had issued a letter dated 09.01.2021 seeking records pertaining to the auction from M/S.Murray & Company, but had not received any reply. It had been contended that the sale transaction was sham and null and void.



WEB COPY

10. The plaintiff stated that he was incapacitated due to minority and did not know how to enforce his legal right and did not have knowledge of the fraud committed in the sale proceedings. He was 24 years old. He also suffered from heart ailment and stroke. His son had investigated and obtained several documents and he came to know that the 23rd defendant had been enjoying the entire property. He also stated that the 23rd defendant had not been remitting the monthly rents from 1961 till 1975, when the auction took place. He had also stated that even after the sale in the year 1976, a large area of 10.53 acres still continues to be in the possession of the 23rd defendant. Another suit was filed in C.S.No. 96 of 1979 by the purchaser against the 23rd defendant and the suit culminated in favour of the 23rd defendant. It had also been stated that subsequently, several sale transactions had been made in the said property and there were also litigations among the parties and the plaintiff places credit to his son for gathering all these details.

11. It had been further stated that in 1994, out of the larger area of 10.53 acres, land of 3.84 acres had been handed over to the 23rd defendant, Madras Race Club and the plaintiff came to know of this fact from the website of Wikipedia. However, it is contended that Madras Race Club had put up in their website that they had purchased the land from the Government of Tamil Nadu. The plaintiff claims that he came to know about the various transactions only in the year 2021. It had therefore been stated that the suit had been filed within the period of limitation from the date of knowledge of fraud. It is under those circumstances the suit had been filed seeking a declaration to set aside the auction conducted in the years 1974,

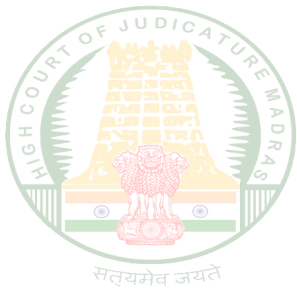


WEB COPY

1975 and sale deeds registered from the year 2000 onwards as null and void and as vitiated by fraud.

12. It is pertinent to point out that the plaintiff had originally sought to file his suit as an indigent person and filed A.No.4406 of 2021. That application had come for examination before the learned Master and the learned Master had examined Section 3 of the Limitation Act whether the suit was filed within the period of limitation and placed reliance on Articles 58 and 65 of the Limitation Act which relates to the period of limitation and wherein the period begins to run when the right to sue first accrues and when possession of the defendant becomes adverse to the plaintiff.

13. The learned Master found that the plaintiff had been dormant for about 60 years and had filed the suit under the instructions of his son. The learned Master refused to grant permission to institute as an indigent person. As against that particular order, the plaintiff had filed A.No.1889 of 2022 which came up for consideration before a learned Single Judge of this Court. The learned single Judge had examined the report of the District Collector, N.T.R District, Vijayawada and thereafter held that the plaintiff had no sufficient means to pay the court fees and declared the plaintiff as a pauper and permitted him to institute the suit as an indigent person and exempted him from paying the court fees for the present. But however, the findings of the learned Master that the suit had been instituted well beyond the period of limitation, had not been set aside or addressed. That finding still remains.



WEB COPY

14. The power of the Court to exercise its jurisdiction to nip at the bud a vexatious or frivolous suit is inherent.

15. In ***T.Arivanantham Vs. T.V.Sathyapal***, reported in ***AIR 1977 SC 2421 1***, the Hon'ble Supreme Court while examining a suit which sought a declaration that an eviction order had been obtained by fraud and collusion and which had been instituted by a son after a similar exercise by his father had failed had held as follows:

“2. Here is an audacious application by a determined engineer of fake litigations asking for special leave to appeal against an order of the High Court on an interlocutory application for injunction. The sharp practice or legal legerdemain of the petitioner, who is the son of the second respondent, stultifies the court process and makes a decree with judicial seals brutum fulmen. The long arm of the law must throttle such litigative caricatures if the confidence and credibility of the community in the judicature is to survive. ...”

16. In ***1998-3-SCC-573 (K.K.Modi Vs. K.N.Modi)***, the Hon'ble Supreme Court had stated as follows:

“44. One of the examples cited as an abuse of the process of the Court is re litigation. It is an abuse of the process of the Court and contrary to justice and public



WEB COPY

policy for a party to re litigate the same issue which has already been tried and decided earlier against him. The re agitation may or may not be barred as res judicata. But if the same issue is sought to be re-agitated, it also amounts to any abuse of the process of the court. A proceeding being filed for a collateral purpose, or a spurious claim being made in litigation may also in a given set of facts amount to an abuse of the process of the Court. Frivolous or vexatious proceedings may also amount to an abuse of the process of the Court especially where the proceedings are absolutely groundless. The court then has the power to stop such proceedings summarily and prevent the time of the public and the court from being wasted. Undoubtedly, it is a matter of the Court's discretion whether such proceedings should be stopped or not; and this discretion has to be exercised with circumspection. It is a jurisdiction which should be sparingly exercised, and exercised only in special cases. The court should also be satisfied that there is no chance of the suit succeeding.”

17. The plaintiff in his plaint had admitted that his father had created mortgage of the properties and that the mortgagee had brought the properties for sale and that applications to frustrate such efforts had been dismissed by judicial orders of this Court. The same cannot be reopened by



WEB COPY

way of instituting a fresh suit. Originally the matter had gone up to the Hon'ble Supreme Court and by judgment dated 26.04.1961 in C.A.No.387 of 1956, the right of the grandmother of the plaintiff had been rejected. Thereafter, the properties were brought to sale on 26.04.1974 and the family of the plaintiff had filed A.No.1092 of 1974 which had been dismissed on 02.12.1974. That was the second time when the efforts of the plaintiff or his family members with respect to the properties, had been rejected. Again when the property was brought for sale on 26.06.1975, the brother of the plaintiff had filed A.N.1586 of 1975 and the High Court had granted three months time to settle the dues. That was not complied with which naturally meant the plaintiff's family had taken a conscious decision to give up the rights over the properties. Thereafter, the properties had been brought to sale. The purchaser had every right to nominate any person he deems fit. The plaintiff cannot at this stage question that particular process. The plaintiff is indulging himself in a vexatious litigation and has waited for his son to acquire a law decree and initiate this vexatious suit.

18. The learned counsel for the plaintiff had relied on a string of judgments and let me record them in entirety.

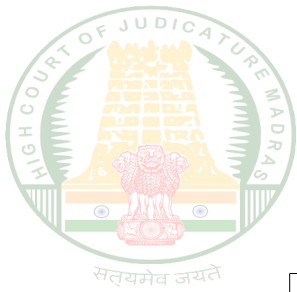
(i) 2021 (4) CTC 539 (*Selvaraj vs. Koodankulam Nuclear Power Plant India Limited*). The relevant paragraph is extracted hereunder:

31. Now, to facilitate the process of scrutiny of plaint at the preliminary, preregistration stage in the manner herein above stated, this Court tabulate the same below:



WEB COPY

<i>Heads</i>	<i>Permissible during scrutiny of plaint</i>	<i>Not permissible</i>
<i>Cause title and form of pleading (Order VI Rule 3)</i>	<i>Yes. Can be verified if there is a substantial compliance of Appendix A.</i>	
<i>Parties to suit Order VII Rule 1 (a) to (b) and Rule 4</i>	<i>Yes. Required to the extent required, and if the suit is laid in a representative capacity.</i>	
<i>Maintainability (cause of action) Sec.9 & Order VII Rule 1(e)</i>	<i>Maintainability (cause of action) Sec.9 & Order VII Rule 1(e)</i>	<i>?Sufficiency or adequacy of pleading cannot be gone into. Hence grounds of fraud as in Order VI Rule 4 CPC cannot be insisted. ?Proof of any of the allegations in the plaint should not be sought. ?Merits of the matter or correctness of the pleadings cannot be gone into.</i>
<i>Maintainability (Jurisdiction) Sec.9 CPC</i>	<i>?If the inherent jurisdiction of the Court is barred in granting the relief sought by any statute. ?Caution must be exercised before returning a plaint. The entire plaint, the cause of action and the relief sought must be understood as are stated or disclosed in the plaint alone need to be considered. ?The statutory provision barring the institution of</i>	



WEB COPY

Heads	Permissible during scrutiny of plaint	Not permissible
	<i>the civil suit or excluding the civil court's inherent jurisdiction to take cognizance of the civil dispute must be strictly under stood.</i>	
<i>Maintainability (Limitation)</i>	<i>Yes. Where a suit is ex facie barred by limitation.</i> <i>Only the allegation in the plaint should be the basis. However, where the plaintiff pleads exemption from the law of limitation under Order VII Rule 6, this should be left to be tested post registration of the suit at the appropriate stage.</i>	<i>Newer or clarificatory material or proof of any fact pertaining to limitation should not be insisted.</i>
<i>Newer or clarificatory material or proof of any fact pertaining to limitation should not be insisted.</i>	<i>Yes.</i>	
<i>Money suits Order VII Rule 2</i>	<i>If precise amount is stated</i>	
<i>Description of Property Order VII Rule 3</i>	<i>Yes</i>	<i>However, sufficiency of the description cannot be gone into. Again, if there is any variance of extent or boundary description with any title deed, even that may be formally notified for a possible typographical or clerical mistake, but if any explanation is offered</i>



<i>Heads</i>	<i>Permissible during scrutiny of plaint</i>	<i>Not permissible</i>
		<i>justifying the extent stated, the plaint has to be registered. This is because, looking for proof and correctness of pleadings is not contemplated at the stage when the suit is registered.</i>
<i>Relief Order VII Rule 7 and 8</i>	<i>Yes, but limited to ascertaining if a relief at all is sought</i>	<i>Appropriateness or suitability of the relief sought cannot be gone into. This is not Court's job. Seeking the relief is the prerogative of the plaintiff. The fact that the Court may not grant it ultimately is a matter for adjudication, and is part of its judicial act and not part of its ministerial act of numbering the plaint. [See AIR 1942 Mad 446]</i>
<i>Valuation and court fee</i>	<i>Yes. But the basis for the the valuation must be as stated by the plaintiff. If any objection as to valuation must be done, then the defendant can always raise it during the first hearing under Sec. 12(2) of the Tamil Nadu Court Fee & Suit Valuation Act, 1955</i>	<i>Proof of value of subject matter of the suit such as expert's valuation report cannot be insisted.</i>
<i>Documents</i>	<i>If enclosed can be verified with the list provided in the plaint</i>	<i>If enclosed can be verified with the list provided in the plaint</i>



WEB COPY

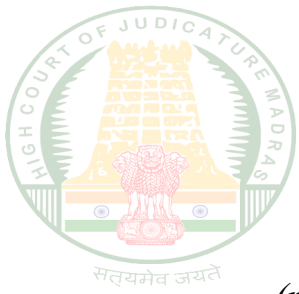
<i>Heads</i>	<i>Permissible during scrutiny of plaint</i>	<i>Not permissible</i>
		<i>It needs to be realised that, given the level of poverty and illiteracy in this country it cannot be expected that every one will possess all the documents all the time, anticipating the possibility of laying a suit 24 x 7. No law compels any person to possess all the documents all the time either. A cause of action for the suit invariably arises at a time convenient to the defendant, but it is the plaintiff who has to approach the Court to protect his/her right. All that the plaintiff therefore needs is only a cause of action and not proof of it when he enters the court system.</i> <i>This apart After all under Order VII Rule 14(3) CPC documents, including title documents can be produced subsequently.</i> <i>Production of documents may be relevant for considering the granting of interim relief, but is not mandatory for numbering the suit.</i>



Heads	Permissible during scrutiny of plaint	Not permissible
<i>Signing the Plaint : Order 6, Rule 14</i>	<i>Yes</i>	
<i>Verification of Plaint: Order 6, Rule 15</i>	<i>Yes</i>	
<i>Accompanying papers</i>	1. Copy of plaint and affidavit. 2. Vakalath. 3. Any application for leave to sue 4. Process along with copies of plaint. (Plaint cannot be returned for not providing it since under Order VII Rule 9, they have to be provided only after the suit is numbered and the Court orders summons to the defendant) 5. Any other applications with affidavit	
<i>Others</i>	<i>Any formal typographical or clerical error apparent on the face. Any doubt as to pecuniary or territorial jurisdiction. This is consistent with Order VII Rule 1(a) CPC</i>	

(ii) (2018) 6 SCC 422 (*Chhotanben and another vs. Kiritbhai Jalkrushnabhai Thakkar and others*). The relevant paragraph is extracted hereunder:

19. In the present case, we find that the appellants

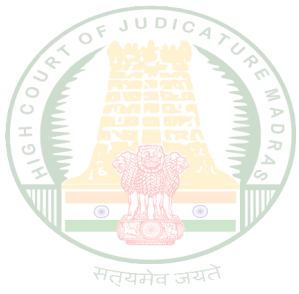


WEB COPY

(plaintiffs) have asserted that the suit was filed immediately after getting knowledge about the fraudulent sale deed executed by original defendant Nos.1 & 2 by keeping them in the dark about such execution and within two days from the refusal by the original defendant Nos.1 & 2 to refrain from obstructing the peaceful enjoyment of use and possession of the ancestral property of the appellants. We affirm the view taken by the Trial Court that the issue regarding the suit being barred by limitation in the facts of the present case, is a triable issue and for which reason the plaint cannot be rejected at the threshold in exercise of the power under Order VII Rule 11(d) CPC.

(iii) (2021) 17 SCC 100 (Salim D.Agboatwala and others vs. Shamalji Oddhavji Thakkar and others). The relevant paragraphs are extracted hereunder:

16.The 2 ingredients of the relevant part of Section 3 as to when “a person is said to have notice”, are matters of fact to be established through evidence. The respondents in this case cannot even fall back upon Explanation II which holds that a person acquiring an immovable property will be deemed to have notice of the title of a person in actual possession thereof. In this case, it was the Court Receiver who was in possession and



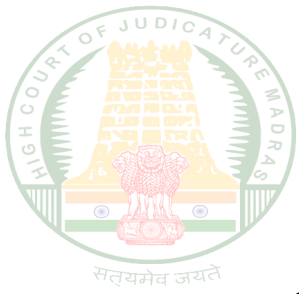
WEB COPY

management of the entire Estate at the time of the impugned proceedings and hence Explanation II cannot be used by the defendants.

17. The decision in Rajasthan Housing Board (supra) also reiterates the two ingredients of Section 3 of the Transfer of Property Act, 1882, and hence the same cannot be raised in an application under Order VII Rule 11. It should be pointed out at this stage that Section 32(G)(1) of the Act contemplates a public notice in the prescribed form to be published in each village. It is not the case of respondents that the plaintiffs had real or constructive notice of the proceedings by virtue of such a public notice. It is not even known whether a public notice was ever published. Therefore, the plea of constructive notice raised with a view to sustain the plea of limitation cannot be accepted at the stage of dealing with an application for rejection of plaint.

(iv) (2010) 8 SCC 383 (Meghmala and others vs. G.Narasimha Reddy and others). The relevant paragraph is extracted hereunder:

28. It is settled proposition of law that where an applicant gets an order/office by making misrepresentation or playing fraud upon the competent Authority, such order

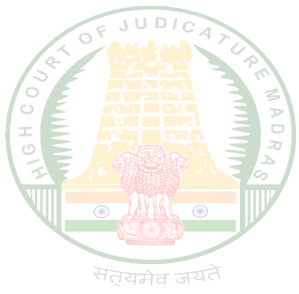


WEB COPY

cannot be sustained in the eyes of law. "Fraud avoids all judicial acts ecclesiastical or temporal." (Vide S.P. Chengalvaraya Naidu (dead) by L.Rs. Vs. Jagannath (dead) by L.Rs. & Ors. AIR 1994 SC 853). In Lazarus Estate Ltd. Vs. Besalay (1956 All. E.R. 349), the Court observed without equivocation that "no judgment of a Court, no order of a Minister can be allowed to stand if it has been obtained by fraud, for fraud unravels everything."

(v) (2007) 4 SCC 221 (A.V.Papayya Sastry and others Vs. Government of A.P and others). The relevant paragraph is extracted hereunder:

39.The above principle, however, is subject to exception of fraud. Once it is established that the order was obtained by a successful party by practising or playing fraud, it is vitiated. Such order cannot be held legal, valid or in consonance with law. It is non-existent and non est and cannot be allowed to stand. This is the fundamental principle of law and needs no further elaboration. Therefore, it has been said that a judgment, decree or order obtained by fraud has to be treated as nullity, whether by the court of first instance or by the final court. And it has to be treated as non est by every



WEB COPY

Court, superior or inferior.

(vi) (2015) 1 S.C.R. 1108 (*P.V. Guru Raj Reddy Rep by GPA Laxmi Narayan Reddy and another Vs. P.Neeradha Reddy and others*). The relevant paragraphs are extracted hereunder:

5. Rejection of the plaint under Order VII rule 11 of the CPC is a drastic power conferred in the court to terminate a civil action at the threshold. The conditions precedent to the exercise of power under Order VII rule 11, therefore, are stringent and have been consistently held to be so by the Court. It is the averments in the plaint that has to be read as a whole to find out whether it discloses a cause of action or whether the suit is barred under any law. At the stage of exercise of power under Order VII rule 11, the stand of the defendants in the written statement or in the application for rejection of the plaint is wholly immaterial. It is only if the averments in the plaint ex facie do not disclose a cause of action or on a reading thereof the suit appears to be barred under any law the plaint can be rejected. In all other situations, the claims will have to be adjudicated in the course of the trial.

6. In the present case, reading the plaint as a whole and proceeding on the basis that the averments made therein are

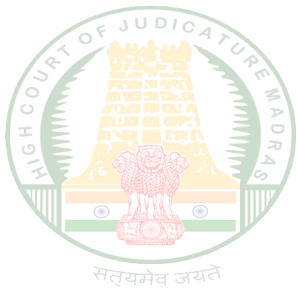


WEB COPY

correct, which is what the Court is required to do, it cannot be said that the said pleadings ex facie discloses that the suit is barred by limitation or is barred under any other provision of law. The claim of the plaintiffs with regard to the knowledge of the essential facts giving rise to the cause of action as pleaded will have to be accepted as correct. At the stage of consideration of the application under Order VII rule 11 the stand of the defendants in the written statement would be altogether irrelevant.

(vii) (2004) 12 SCC 376 (*Indian Mineral & Chemicals Company and others Vs. Deutsche Bank*). The relevant paragraph is extracted hereunder:

10. We are of the opinion that the learned Judges erred in revoking leave under clause 12 of the Letters Patent in view of the clear assertions made in the plaint and the assertions in a plaint must be assumed to be true for the purpose of determining whether leave is liable to be revoked on a point of demurrer See Abdulla bin Ali V. Galappa ; Ritu Sachdev V. Anita Jindal and Secretary of State V. Golabrai Paliram AIR 1932 Cal 146. In the plaint the jurisdiction of the High Court was claimed on the ground that :



WEB COPY

1) UCO Bank's branch which was within the Courts jurisdiction intimated the plaintiffs that the letter of Credit had been issued by the Respondent;

2) The documents were presented by the plaintiffs to the said branch of UCO Bank; and

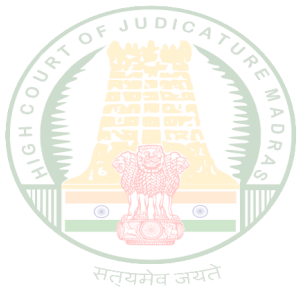
3) Payment was to be received by the Plaintiffs from the said branch of UCO Bank.

(viii) (2019) 12 SCC 205 (*Isha Distribution House Private Limited Vs Aditya Birla Nuvo Limited and another*). The relevant paragraph is extracted hereunder:

17. Coming now to the facts of this case, since in this case the respondents did not file any written statement and instead raised the plea of territorial jurisdiction by filing the application for revocation of leave, in our view, the High Court should not have entertained the said application and instead should have granted liberty to the respondents (defendants) to file the written statement in the suit and to raise therein a plea of territorial jurisdiction of the Court.

(ix) A.No.23 of 2020 (*R.Mathiazhagan and others Vs. P.J.Ethiraj and others*). The relevant paragraph is extracted hereunder:

18. In support of his submission that the plaint



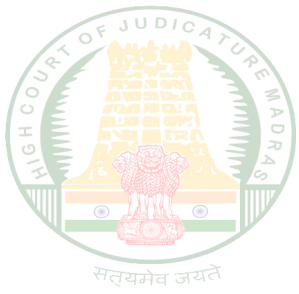
WEB COPY



allegation will have to be taken to be true while deciding the question of grant or revocation of leave, Mr.N.Jothi would rely upon the judgment of the Hon'ble Supreme Court in Indian Mineral and Chemicals Co. and others Vs. Deutsche Bank reported in 2004 (12) SCC 376. He would also point out that the said judgment has been re-affirmed by the Hon'ble Supreme Court in Isha Distribution House Private Limited Vs. Aditya Birla Nuvo Limited and another reported in 2019 (12) SCC 205.

(x) (2015) 8 SCC 331 (P.V. Guru Raj Reddy Rep by GPA Laxmi Narayan Reddy and another Vs. P.Neeradha Reddy and others). The relevant paragraph is extracted hereunder:

6. In the present case, reading the plaint as a whole and proceeding on the basis that the averments made therein are correct, which is what the Court is required to do, it cannot be said that the said pleadings ex facie discloses that the suit is barred by limitation or is barred under any other provision of law. The claim of the plaintiffs with regard to the knowledge of the essential facts giving rise to the cause of action as pleaded will have to be accepted as correct. At the stage of consideration of the application under Order VII rule 11 the stand of the defendants in the written statement would be altogether

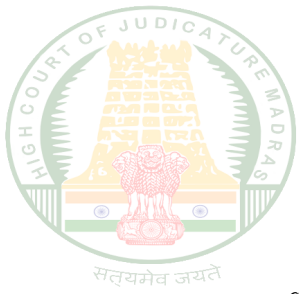


WEB COPY

irrelevant.

(xi) (2000) 6 SCC 685 (*Ram Niwas [dead] through LRS. Vs. Bano (Smt) and others*). The relevant paragraph is extracted hereunder:

18. Both the learned Single Judge as well as the learned Judges of the Division Bench of the High Court dealt with the question whether the purchasers had actual knowledge of Ext.1, the earlier contract, and on evidence found that the purchasers did not have any knowledge of it. But they failed to notice the provisions of Explanation II to Section 3 of the Transfer of Property Act which is germane on the point of notice. Indeed, issue No.10 was not properly framed. The word notice should have been used in issue No.10 instead of knowledge because Section 19(b) uses the word notice. From the definition of the expression, a person is said to have notice in Section 3 of the Transfer of Property Act, it is plain that the word notice is of wider import than the word knowledge. A person may not have actual knowledge of a fact but he may have notice of it having regard to the aforementioned definition and Explanation II thereto. If the purchasers have relied upon the assertion of the vendor or on their own knowledge and

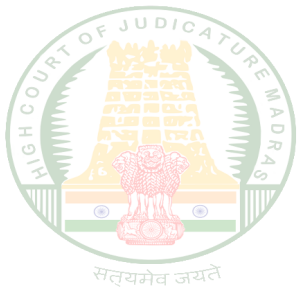


WEB COPY

abstained from making enquiry into the real nature of the possession of the tenant, they cannot escape from the consequences of the deemed notice under Explanation II to Section 3 of the Transfer of Property Act. On this point, in the light of the above discussion, we hold that the purchasers will be deemed to have notice of Ext.1, should it be found to be true and valid.

19.The ratio in all the aforementioned judgments are not applicable to the facts of this case wherein the plaintiff seeks to set aside an auction of the year 1974 and 1975 when applications in that regard had been filed at that time itself and rejected by the Court. Thereafter, the sale deeds have been executed right from the year 2000 onwards. They are registered documents and the explanation of the plaintiff that he waited for his son to obtain a law degree, gather materials and then file the suit is reject. The plaintiff cannot claim ignorance of law. In an old quotation of an English historian, John Selden (1584-1654), it had been stated that “*ignorance of the law excuses no man; not that all men know the law, but because 'tis an excuse every man will plead, and no man can tell how to confute him*”.

20.Further, the maxim to be applied is *Ignorantia juris non excusat* is a Latin phrase which means “ignorance of the law excuses no one”.



WEB COPY

21.The plaintiff has indulged in an extremely vexatious litigation, I am not prepared to grant leave to institute this vexatious suit within the jurisdiction of this Court. A.No.4825 of 2022 stand dismissed.

22.In view of the nature of the order passed, A.D.Nos.58388 to 58400 of 2024 are also closed.

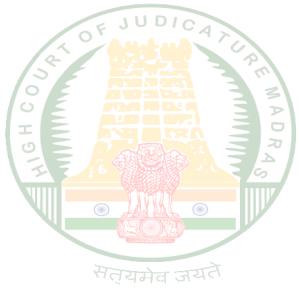
23.In view of the order passed, C.S.D.No.99888 of 2021 is rejected.

31.07.2024

vk

C.V.KARTHIKEYAN,J.

vk



WEB COPY

A.No.4825 of 2022
and A.No.2339 of 2024
and A.D.Nos.58388 to 58400 of 2024
in C.S.D.No.99888 of 2021

31.07.2024