
(2000) 10 MAD CK 0086
In the Madras High Court
Case No : O.S.A. No. 123 of 2000

D. Hari Krishnan	Vs	APPELLANT
M.G.R. Memorial Chritable Trust		RESPONDENT

Date of Decision : 24-10-2000

Acts Referred:

Citation : (2000) 4 CTC 479 : (2000) 3 LW 755

Hon'ble Judges : C. Nagappan, J;A.S. Venkatachalamoorthy, J

Bench : Division Bench

Advocate : Mr. S.J. Jagadev, for the Appellant; Mr. T.V. Ramanujam, for Mr. V.K. Elango, for the Respondent

Judgement

C. Nagappan, J.—This is an appeal against the order of the learned single judge of this court passed in Application No.4119 of 1999 in C.S.No.528 of 1999, dated 17.12.1999.

2. The appellant filed a suit in C.S.No.528 of 1999 praying for a decree against the defendants to deliver vacant possession of the suit property. The defendant took out an application in A.No.4119 of 1999 praying for a direction to return the plaint in the above suit for presentation before the proper court on the ground that the suit property is not situated within the jurisdiction of the Original Side of this Court. The respondent/plaintiff resisted the same the contented that this court has jurisdiction to entertain the suit.

3. The learned Single, judge, after hearing both side allowed the application and ordered the plaint to be returned to the plaintiff for presentation to the proper Court. The present appeal is filed against that order.

4. Admittedly, the suit is for recovery of possession and the property is situated at Manapakkam Village, Sriperumbudur Taluk, Kancheepuram District, which is outside the jurisdiction of the original side of this Court. The plaintiff did not obtain any leave from this Court under clause 12 of the Letters Patent.

5. The learned counsel for the appellant contended that the High Court, on its Original Side, has jurisdiction whatever be the nature of the suit, in case the defendants reside within its territorial jurisdiction and relied on the decision of this Court in *Bank of Madurai Ltd. Vs. Balaramadass and Brothers and Others*, . The above decision arose in a suit for recovery of money by enforcement of equitable mortgage by deposit of title deeds and the properties were situated outside the territorial jurisdiction of the Original Side of the High Court.

6. The Division Bench, in the above decision, held that all the defendants were residing within the territorial jurisdiction of this court and this Court has got clear jurisdiction to entertain the suit and further held that the question referred as to whether the suit is one for immovable property or not does not arise and the same need not be gone into in the case. So, the question as to whether it is a suit for land was not gone into in the above decision.

7. The learned counsel for the respondent cited the decision in *Southern Petrochemical Industries Corporation Ltd. Vs. Durga Iron Works and Others*, wherein the suit is one for recovery of money by enforcement of equitable mortgage of immovable properties, situated outside the jurisdiction of the Original Side of the High Court. The Division Bench, in the above decision, held that the suit is not one for land and it is only for recovery of money and leave was granted to institute the suit on the Original Side of the High Court. The Division Bench further held that the suit involving determination of title and interest of land and for recovery of possession would be "Suit for land" as contemplated under Clause 12 of the Letters Patent of this Court.

8. The learned counsel for the respondent further relied on the latest decision of this Court in *A. Velliangiri (deceased) and 3 others Vs. M/s. Ram Bahadur Takur (P)Ltd., Lahariasari, Durbanga Dist. Bihar State and 3 others*, . The above decision arose in a suit praying for a decree for specific performance against the defendants and directing the defendants to execute the sale deed in favour of the plaintiffs and the properties were situated outside the jurisdiction of the Original Side of the High Court. The Division Bench, in the above decision, held that the suit involves title to the property and the suit is for land coming within the scope of clause 12 of the Letters Patent and the suit properties being situated outside the jurisdiction of this Court, the leave granted earlier was rightly revoked by the learned Single Judge.

9. Applying the ratio of the above judgments, it follows that the suit involving claims regarding title to the property or to the possession of the property are "suits for land".

10. As already seen, the above suit is one for recovery of possession of immovable property, situated outside the jurisdiction of the Original Side of this Court and the present suit is for land coming within the scope of Clause 12 of the Letters Patent of this Court and hence this Court has no jurisdiction to entertain the suit. Therefore, we do not find any reason to differ with the conclusion

arrived at by the learned single judge.

11. In the result, the appeal fails and the same is dismissed. There shall be no order as to costs. Time for presentation of the plaint in the proper court is four weeks.