



C.R.P(MD).No.64 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P(MD).No.64 of 2023

and

C.M.P(MD). No. 311 of 2023 -

1.Karuppaiya
2.Muthaiya
3.Chinnathampi
4.Subbiramani
5.Karuppaiya
6.Rajesh
7.Veerassamy
8.Vellaichamy

... Petitioners/Defendants 1 to 6,8 and 9

Vs.

1.Murugesan

2.Pitchaimuthu

... Respondents 1 and 2/Plaintiffs

3.Raja

... 3rd Respondent/7th Defendant

PRAYER:- This Civil Revision Petition has been filed under Article 227 of the Constitution of India, to call for the records in connection with O.S. No. 70 of 2021 on the file of District Munsif Court, Dindigul and to allow the Civil Revision Petition and to strike off the suit.

For petitioners : Mr.M.Mohamed Ibram Saibu
for M/s.Ajmal Associates
For R1 & R2 : Mr.H.Lakshmi Shankar
For R3 : No Appearance



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ORDER

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This Civil Revision Petition has been filed by the petitioners to quash O.S. No.70 of 2021 on the file of District Munsif Court, Dindigul.

2.The petitioners herein are the defendants before the District Munsif Court, Dindigul in O.S.No.70 of 2021. The suit has been filed for the following reliefs:-

“அ) 1ம் வாதி வழக்கிடை கோவில்களுக்கு யூசாரி என விளம்புகை செய்யும்படிக்கும்,

ஆ) 1ம் வாதி வழக்கிடை கோவில்களுக்கு கடந்த காலங்களை போல் யூஜாரியாக செயல்பட்டு வந்ததை போல் மேற்படி கோவில்களுக்கு யூஜாரியாக செயல்பட்டு வருவதை பிரதிவாதிகளோ அவர் வகை ஆட்களோ எவ்வித தடையோ, இடையூறோ செய்யக்கூடாது பிரதிவாதிகள் மீது நிரந்தர உறுத்துக்கட்டளை பரிகாரம் வழங்கும்படிக்கும்,

இ) 2 வாதி மேற்படி தவசிமடை ஊரில் அம்பலமாக கடந்த காலங்களில் செயல்பட்டு வந்ததை போல் செயல்பட்டு வருவதற்கு என பரிகாரம் வழங்கும்படிக்கும், பிரதிவாதிகளோ அவர் வகை ஆட்களோ எவ்வித தடையோ, இடையூறோ செய்யக்கூடாது என நிரந்தர உறுத்துக்கட்டளை பரிகாரம் வழங்கும்படிக்கும்,

ஈ)வழக்கின் செலவு தொகை வாதிகளுக்கு பிரதிவாதிகள் செலுத்தி வைக்கும்படிக்கும்,

உ) இன்னும் இவ்வழக்கின் தன்மைக்கும், கோர்ட்டார் அவர்கள் யுக்திக்கும் ஏற்ப இதர பரிகாரங்கள் வழங்க வேண்டி பிரார்த்திக்கப்படுகிறது.”

3.The specific case of the petitioners before this Court is that the above suit is abuse of Court proceedings. The first respondent herein who has instituted O.S.No.70 of 2021 along with the second respondent as earlier



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instituted O.S.No.275 of 2016 and that there was a compromise. Therefore, subsequent suit in O.S.No.70 of 2021 is liable to be stroke off from the file of the District Munsif Court, Dindigul. It is submitted that the earlier suit was compromised and was not pressed and therefore in the light of the compromise entered between the parties in the earlier suit in O.S.No.275 of 2016, the subsequent suit in O.S.No.70 of 2021 cannot be countenanced in terms of Order XXIII Rule 1 of CPC. Further submitted that once a suit has been dismissed as compromise, subsequent suit is not maintainable.

4.The learned counsel for the respondents 1 and 2 submits that question of *res-judicata* under Order VII Rule 1 of CPC could not arise and no final determination of issue. It is further submits that many of the defendants in the previous suit have died and the petitioners who are the defendants in the above suit are disturbing the rights of the respondents to appreciate as the priest in the subject temple.

5.I have considered the argument advanced by the learned counsel for the petitioner and the learned counsel for the respondents 1 and 2.



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6. In my view, the present Civil Revision Petition is a misadventure. It is not open for the petitioners to strike off the suit proceedings before the Trial Court on the ground that the previous suit was compromised. Admittedly, there are fresh cause of action, which was given rights to the petitioners and therefore the suit that has been instituted by the respondents 1 and 2 cannot struck-off from the file of the District Munsif Court, Dindigul. It is open for the petitioners to file written statement and face the trial.

7. With the above observations, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

19.04.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
dss

To

1. The District Munsif Court,
Dindigul.
2. The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

dss

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