



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.10.2016

CORAM

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

C.R.P. (MD) No. 1841 of 2016

and

C.M.P. (MD) No. 8855 of 2016

P.M. Murali

.. Petitioner/First defendant

Vs.

1. P.M. Gajendran

2. P.M. Mahesh Kumar

3. P.M. Chandrasekar

4. Ahamed Safiullah

.. Respondents 1 to 3/Plaintiffs

.. 4th respondent/2nd defendant

PRAYER: Petition is filed under Article 227 of Constitution of India, to allow this Civil Revision Petition to strike off the suit in O.S.No.29 of 2016 on the file of the Principal District Court, Ramanthapuram and reject the plaint.

For Petitioner : Mr. T.R. Jeyapalam

O R D E R

The revision petitioner has filed the present Civil Revision Petition before this Court to strike off the suit in O.S.No.29 of 2016 pending before the Principal District Court, Ramanthapuram.

2. According to the petitioner, the respondents 1 to 3 have filed the suit in O.S.No.29 of 2016 before the Principal District Court, Ramanathapuram for declaration and permanent injunction against the revision petitioner/first defendant and the fourth respondent/2nd defendant.

3. In the aforesaid suit, summons were served to the revision petitioner. The revision petitioner entered appearance before the trial Court. Thereafter, the present Civil Revision Petition has been filed under Article 227 of the Constitution of India to strike off the plaint in O.S.No.29 of 2016 pending on the file of the Principal District Court, Ramanathapuram.

4. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

5. The revision petitioner has filed the present Civil Revision Petition before this Court to strike off the plaint in O.S.No.29 of 2016 pending before the Principal District Court,



Ramanathapuram. According to the petitioner, there is a flagrant violation of principles of natural justice and abuse of process of law by the respondents 1 to 3 in filing the said suit. Therefore, the present Civil Revision Petition has been filed by the revision petitioner by invoking Article 227 of the Constitution of India. Without resorting to the remedy as provided under Order 7 Rule 11 of C.P.C., the petitioner has filed this revision petition.

6. Order 7 Rule 11 of C.P.C., reads as follows:

11. Rejection of plaint—The plaint shall be rejected in the following cases:—

- (a) where it does not disclose a cause of action;*
- (b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;*
- (c) where the relief claimed is properly valued but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;*
- (d) where the suit appears from the statement in the plaint to be barred by any law;*
- [(e) where it is not filed in duplicate;]*
- [(f) where the plaintiff fails to comply with the provisions of rule 9.]*

[provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-papers shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp papers, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.]

7. In view of the above said position, under C.P.C., the petitioner has got remedy before the trial Court to raise all the points raised in this civil revision petition. Therefore, at this stage, this Court is not inclined to entertain this civil revision petition. It is open to the petitioner to file an appropriate application before the trial Court under the provisions of C.P.C. In the event of such application is being filed before the trial Court in the aforesaid suit, the trial Court is directed to consider the said application on merits and in accordance with law.



With the above observations, this Civil Revision Petition is dismissed as not maintainable. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

The Principal District Court,
Ramanthapuram

+1cc to Mr.T.R.Jeyapalam, Advocate in SR No.62420

C.R.P. (MD) No.1841 of 2016
20.10.2016

PM

ANR/EM-MPA/11.11.2016/3P/3C