

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2017

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.R.P (PD) NO.2183 OF 20171.S.Arumugam
2.A.Padmini

... Petitioners

Vs.

T.Mohanlal Kankariya

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order passed by the learned Principal District Judge, Kancheepuram at Chengalpet, in I.A.No.254 of 2016 in O.S.No.214 of 2013 dated 23.02.2017 and allow this Civil Revision Petition thereby reject the plaint in O.S.No.214 of 2013.

For Petitioners : Mr.M.Jayapal Rajan

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ORDER

This Civil Revision Petition is directed against the order dated

23.02.2017 passed in I.A.No.254 of 2016 in O.S.No.214 of 2013, by the learned Principal District Judge, Kancheepuram District at Chengalpet, on a petition filed under Order VII Rule 11 of the Civil Procedure Code to reject the plaint.

2. A perusal of the pleadings would go to show that the petitioners / defendants seek to reject the plaint on the grounds of estoppel and in view of the pendency of a comprehensive suit filed later. The petitioners / defendants has filed an elaborate written statement in the suit, making so many allegations against the respondent / plaintiff. They would contend that the suit is hit by promissory estoppel and that they have filed comprehensive suit viz., O.S.No.61 of 2015 and the suit filed by the respondent / plaintiff is only for a limited prayer. The Trial Court, on considering the averments made in the affidavit filed in support of the application has held that in an application filed under Order VII Rule 11 of the Civil Procedure Code, the averments made in the plaint alone are to be taken for consideration and it cannot be decided on the basis of the averments made in the written statement. The Trial Court has also observed that the comprehensive suit in O.S.No.61/2015 was filed by

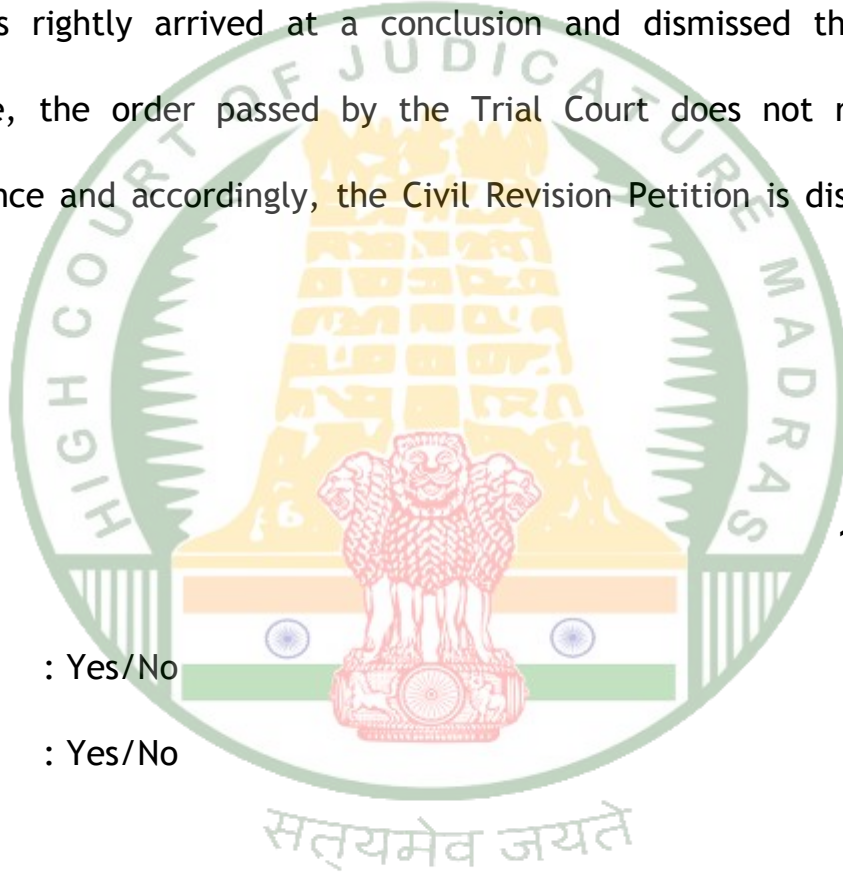
the petitioners / defendants much later than the present suit and therefore, it cannot be held that it is a ground for rejection of the plaint. Since the Trial Court has taken a view that all these aspects can be gone into during trial and finding there are no valid reasons to reject the plaint, has dismissed the petition filed by the petitioners.

3. The learned counsel appearing for the petitioners would vehemently contend that the suit is barred by the principles of promissory estoppel and therefore, it is not maintainable. Secondly, they have filed a comprehensive suit in O.S.No.61/2015 and therefore also, the suit is not maintainable and it shall be rejected.

4. It is well settled law that the averments made in the plaint alone are germane and the plea taken by the petitioners / defendants in this matter would be totally irrelevant at this stage.

5. The comprehensive suit which is now claimed to have been filed by the petitioners / defendants was filed in the year 2015 only that is three years after the filing of the present suit by the respondent /

plaintiff. Order VII Rule 11 of the Civil Procedure Code does not contemplate a situation that subsequent suit will entitle anyone to get the plaint rejected. The petition does not fall within the ambit of Order VII Rule 11 of the Civil Procedure Code and therefore, I find that the Trial Court has rightly arrived at a conclusion and dismissed the petition. Therefore, the order passed by the Trial Court does not require any interference and accordingly, the Civil Revision Petition is dismissed. No costs.



14.09.2017

Index : Yes/No

Internet : Yes/No

TK

To

The Principal District Judge
Kancheepuram at Chengalpet.

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M.GOVINDARAJ, J.

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