

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2017

CORAM

THE HON'BLE MR.JUSTICE M.DURAIWAMY

**C.R.P.No.990 of 2017
and C.M.P.No.4878 of 2017**

1.K.Senthil Kumar
2.V.Prakash
3.J.A.Senthil Kumar

..Petitioners

versus

1.J.Indumathy
2.N.Murugesan

3.The Village Administrative Officer,
Elaiyamuthur Village,
Udumalaipet Division,
Tiruppur District.

4.The Revenue Inspector,
Kongalakurichi Village,
Udumalaipet Division,
Tiruppur District.

5.The Tahsildar,
Udumalaipet Division,
Tiruppur District.

6.The District Collector,
Tiruppur District, Tiruppur.

7.T.Balamohan

..Respondents

Petition filed under Article 227 of the Constitution of India to struck off the plaint in O.S.No.48 of 2015 pending before the District Munsif, Udumalaipet.

For Petitioners : Mr.Va.Vu.Si.Vazhakagam

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ORDER

The defendants 1 to 3 have filed the above Civil Revision Petition to struck off the plaint in O.S.No.48 of 2015 pending on the file of District Munsif, Udumalaipet.

2.The petitioners have contended that even during the pendency of the suit in O.S.No.390 of 2014 filed by respondents 1 and 2 for permanent injunction in respect of the very same suit properties, respondents 1 and 2 chose to file the second suit in O.S.No.48 of 2015 for permanent injunction.

3.The Learned Counsel appearing for the petitioners submitted that both the suits are pending before the District Munsif, Udumalaipet, and that respondents 1 and 2 have filed the second suit in O.S.No.48 of 2015 without obtaining any leave in the first suit.

According to the learned counsel for the petitioners, the filing of the second suit by respondents 1 and 2 are a clear abuse of process of law. In these circumstances, the learned counsel submitted that the plaint in O.S.No.48 of 2015 should be struck off from the file.

4.Since defendants 1 to 3 have approached this Court without exhausting the remedy available to them under Order VII Rule 11 of CPC, I am of the view that it is open to defendants 1 to 3 to file an application order VII Rule 11 of CPC. If such an application is filed by defendants 1 to 3, the trial Court shall decide the same on merits and in accordance with law.

5.With these observations, the Civil Revision Petition is dismissed. No costs. Consequently, C.M.P.No.4878 of 2017 is also dismissed.

21.03.2017

Speaking/Non-speaking order

Index : No
Internet : Yes

sra/abr

M.DURAISWAMY, J.

sra/abr

To

1.The District Munsif, Udumalaipet.

C.R.P.(PD) No.990 of 2017

21.03.2017
<http://www.judis.nic.in>