



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2018

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

WEB COPY

C.R.P. (MD) .No. 1204 of 2018  
and C.M.P. (MD) No.5078 of 2018

1. N. Sathasivam
2. M. Balasubramanian
3. M. Harikrishnan
4. M. Lakshmanan
5. V. Kumaresan
6. V. Ganesan
7. T. Subramani
8. A. Muthamil

... Petitioners/Defendants

Vs.

N. Ashokkumar

... Respondent/Plaintiff

**PRAYER:** Civil Revision Petition filed under Article 227 of Constitution of India, to struck off the impugned plaint filed by the respondent/plaintiff in O.S.No.28 of 2018 on the file of the learned District Munsif, Periyakulam.

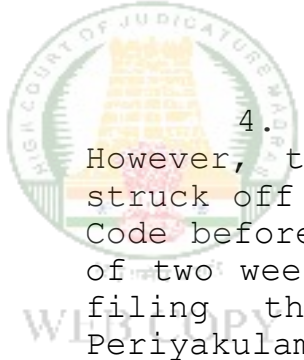
For Petitioner : Mr.R.Senthilkumar

O R D E R

The Civil Revision Petition has been filed to struck off the impugned plaint filed by the respondent/plaintiff in O.S.No.28 of 2018 pending on the file of the learned District Munsif, Periyakulam.

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

3. Since the petitioners/defendants have filed the Civil Revision Petition by invoking Article 227 of the Constitution of India to struck off the impugned plaint filed by the respondent/plaintiff in O.S.No.28 of 2018 pending on the file of the learned District Munsif, Periyakulam. Admittedly, there is a Provision under Order 7 Rule 11 of the Civil Procedure Code, to the defendants to seek the prayer for struck off the plaint. Without availing the said remedy, they approached this Court under Article 227 of Constitution of India. This Court already decided in several cases that, once the remedy available to the parties before the trial Court, they have no right to invoke the jurisdiction under Article 227 of Constitution of India. Therefore, this Court is not inclined to entertain the Civil Revision Petition.



4. Accordingly, the Civil Revision Petition is dismissed. However, the petitioners are directed to file an application to struck off the plaint, under Order 7 Rule 11 of the Civil Procedure Code before the District Munsif Court, Periyakulam, within a period of two weeks from the date of receipt of a copy of this order. On filing the said application, the learned District Munsif, Periyakulam is directed to consider the same and pass orders, by issuing notice to both the parties and dispose of the suit in O.S. No.28 of 2018, within a period of eight weeks thereafter. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

The District Munsif,  
Periyakulam.

+1cc to Mr.R.Senthilkumar, Advocate in SR. No.69452  
KSA  
MK/VR/SAR 2/04.07.2018/2P/3C

**CRP(MD).No. 1204 of 2018**  
**20.06.2018**