

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2019

CORAM

THE HONOURABLE **Mr.JUSTICE N. SATHISH KUMAR**

CRP.No.3227 of 2013
and M.P.No.1 of 2013

Munusami Manthadi

.. Petitioner

Vs

1.T.Nirmal Kumar

2. J.Sundara Babu

3. S.Panneerselvam

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Indian Constitution to set aside the order dated 27.03.2013 made in I.A.No. 196 of 2013 in O.S.No.104 of 2011 on the file of the District Munsiff, Tiruttani, Tiruvallur District.

For Petitioner

: Ms.S.Bharathi

For Respondents

: Mr.C.Chokkalingam
for R1 and R2.
No appearance for R3.

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ORDER

This revision petition has been filed to set aside the order dated 27.03.2013 made in I.A.No. 196 of 2013 in O.S.No.104 of 2011 on the file of the District Munsiff, Tiruttani, Tiruvallur District.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

3. The trial Court has dismissed the suit on the ground that the petitioner has not given any valid reason for withdrawal of the suit. Mere stating that there are formal defects in the pleadings and prayer is not sufficient for permitting the petitioner to withdraw the suit, that too to file a fresh suit on same cause of action. Challenging the same, the present revision petition is filed.

4. It is not the case of the defendant that their right will be defeated, based on mere filing of the suit. Therefore, I am of the view that the suit is at only the issue stage. In the said circumstances, I am of the view that when it is not definitely known whatever is gained by the other side, the Trial Court ought to have given permission to the plaintiff to withdraw the suit.

5. Accordingly, this revision petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

6. The revision petitioner is permitted to withdraw the suit with liberty to file the suit with same cause of action. The respondents are at liberty to challenge the fresh cause of action made in subsequent suit.

22.02.2019

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N. SATHISH KUMAR,J.

msv



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