



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE: 05.11.2019

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P. (PD) (MD) .No.97 of 2019

and

C.M.P. (MD) .No.489 of 2019

A.S.R.Vijayan

... Petitioner/Petitioner/
Defendant

-Vs-

1.Deepa
2.Anobama

... Respondents/Respondents/
Plaintiffs

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 06.10.2018 made in I.A.No.442 of 2018 in O.S.No.275 of 2017 on the file of the II Additional Subordinate Judge, Nagercoil.

For Petitioner : Mr.S.Kadarkarai

For Respondents : Mr.S.Xavier Rajini

O R D E R

The Civil Revision Petition has been filed challenging the order passed by the II Additional Court of Subordinate Judge, Nagercoil in I.A.No.442 of 2018 in O.S.No.275 of 2017, dated 06.10.2018.

2. The respondents are the plaintiffs and they have filed a suit in O.S.No.275 of 2017 against the revision petitioner/defendant for realising a sum of Rs.2,00,000/- from the defendant and through his assets for the first year education expenses of his daughter/second plaintiff. The revision petitioner/ defendant filed an application in I.A.No.442 of 2018 to reject the plaint in O.S.No.275 of 2017, since the respondents/plaintiffs have already filed a suit in O.S.No.249 of 2013 for maintenance and they have agreed mutually to receive a sum of Rs.4,500/- as maintenance and the decree was also passed by the Court below in O.S.No.249 of 2013 and the present suit is barred by *resjudicata*. After considering the



submissions made by both sides, the Court below dismissed the application to reject the plaint. Aggrieved by the said order, the present civil revision petition has been filed.

3. When the matter is taken up for hearing today, this Court suggested the learned counsel for the revision petitioner to find out whether the revision petitioner can contribute a sum of Rs.2,00,000/- to his daughter/second respondent herein for her educational expenses. However, the learned counsel for the revision petitioner contended that this can be decided only in the suit and therein the rights of the plaintiffs whether they are entitled for any amount from the defendant or not can be decided. Further, the learned counsel for the revision petitioner would submit that a direction may be given to the Court below to dispose of the suit within a time frame.

4. The learned counsel appearing for the respondents has also praying this Court to issue appropriate direction to the Court below to dispose of the suit in O.S.No.275 of 2017 within a time frame.

5. Considering the submissions made by both the learned counsel for the petitioner as well as the learned counsel for the respondents, this Court is of the view that presently, the second respondent is studying Engineering College and according to the first respondent/mother, for two years college expenses of the second respondent completed and now the first respondent has to spend only for third and fourth year and the rights of the respondents to receive contribution from the revision petitioner can be decided only at the time of final hearing of the suit. Therefore, this Court directs the II Additional Court of Subordinate Judge, Nagercoil to dispose of the suit in O.S.No.275 of 2017 within a period of two months from the date of receipt of a copy of this order.

6. With the above direction, the Civil Revision Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar (CS)

akv



To

The II Additional Subordinate Judge,
Nagercoil.

Copy to:

The Section Officer, (2 Copies)
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.KADARKARAI, Advocate (SR-96119[F] dated 05/11/2019)

+1 CC to M/s.S.XAVIER RAJINI, Advocate (SR-96401[F] dated
06/11/2019)

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JMN(12.12.2019) 3P : 6C