



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2019

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

C.R.P (MD)No.1520 of 2019

and

C.M.P (MD)No.7981 of 2019

Kaliyammal .. Petitioner / 1st Defendant

Vs.

1.Kamalam

2.Dhandapani

3.Ganesan

4.Dhamotharan

5.Vellaiyammal

6.Manoharan @ Mayilsamy .. Respondents 1 to 6 / Plaintiffs

7.Sangapillai

8.Kanthasamy

9.Sarasu

10.Muthukannu @ Muthammal

11.Packiyam

12.Sundaram @ Sundarammal

13.Nachammal @ Rajammal .. Respondents
6 to 13 / Defendants 2 to 8

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India praying to strike off the suit filed in O.S.No.56 of 2019 on the file of the District Court, Dindigul.

For petitioner : Mr.K.R.Laxman



ORDER

This civil revision petition has been filed by the petitioner / 1st defendant seeking to strike off the plaint in O.S.No.56 of 2019.

2.The respondents 1 to 6 / plaintiffs have filed the suit in O.S.No.56 of 2019 for the reliefs of declaration and permanent injunction. But, according to the petitioner / 1st defendant, the respondents 1 to 6 / plaintiffs have filed the suit seeking to declare the final decree dated 06.12.2001 passed in O.S.No.250 of 2000, as collusive, which amounts to abuse of process of law by re-litigating the entire issue and therefore, she has filed this civil revision petition seeking to strike off the plaint.

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

4.The supervisory jurisdiction conferred on the High Courts under Article 227 of the Constitution is confined only to see whether an inferior Court or Tribunal has proceeded within its parameters and not to correct an error apparent on the face of the record, much less of an error of law. In exercising the supervisory power under Article 227 of the Constitution, the High Court does not act as an appellate Court or the Tribunal. It is also not permissible to a High Court on a petition filed under Article 227 of the Constitution to review or reweigh the evidence upon which the inferior Court or Tribunal purports to have passed the order or to correct errors of law in the decision. The extraordinary power under Article 227 can only be used by the High Courts to ensure that the subordinate Courts function within the limits of their authority. The High Court cannot interfere with the judicial functions of a Subordinate Judge and therefore, even while invoking the provisions of Article 227 of the Constitution, it is provided that the High Court would exercise such powers most sparingly and only in appropriate cases in order to keep the subordinate Courts within the bounds of their authority. The power of superintendence exercised over the subordinate Courts and Tribunals does not imply that the High Court can intervene in the judicial functions of the lower judiciary. The independence of the subordinate Courts in the discharge of their judicial functions is of paramount importance, just as the independence of the superior Courts in the discharge of their judicial functions. It is the members of the subordinate judiciary who directly interact with the parties in the course of proceedings of the case and therefore, it is no less important that their independence should be protected effectively to the satisfaction of the litigants. The independence of the judiciary has been considered as a part of the basic structure of the Constitution and such independence is postulated not only from the executive, but also from all other sources of pressure.



5.This Court in **K.Ponnammal vs. V.Thayanban (CRP(PD)No.4593 of 2011 dated 26.03.2012**, after dealing with the aforesaid cases, has come to the following conclusions:-

"(i) power of judicial superintendence under Article 227 must be exercised sparingly only to keep the courts and tribunals within their bounds of authority and not to correct mere errors;
(ii) the supervisory jurisdiction conferred on the High Court under Article 227 of the Constitution is confined only to see whether an inferior court or tribunal has proceeded within its parameter and not to correct an error apparent on the face of the record;
(iii) where the law provides remedy by filing an appeal or revision, then exercise of power under Article 227 may be refused, on the ground of availability of such alternative efficacious remedy by way of appeal or revision to the aggrieved party."

6.It is well settled that the disputed questions of facts cannot be gone into by this Court under Article 227 of the Constitution of India. The petitioner has filed this civil revision without availing efficacious alternative remedy provided under Order 7 Rule 11 CPC. Therefore, this Court is inclined to dismiss this Civil Revision Petition and accordingly, it is dismissed with liberty to the petitioner to approach the trial Court under Order 7 Rule 11 C.P.C. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

Sub Assistant Registrar(CS)

smn

To

1.The Principal District Judge, Dindigul.

2.The Record Keeper, V.R. Section,
Madurai Bench of Madras High Court,
Madurai.(2 COPIES)

ORDER MADE IN
C.R.P (MD)No.1520 of 2019
30.08.2019

KG (CO)

TR(22.10.2019) 3P 4C

<https://hcservices.ecourts.gov.in/hcservices/>