

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P. (PD) No.296 of 2021

Dr. Vandana Parvez
No.9M SIS Meridian,
Velachery Bypass Road,
Chennai 600 042.

.. Petitioner

Vs.

1. M/s.Madras Gymkhana Club,
Rep. By its President,
Having Address at No.1, Anna Salai,
Chennai 600 002.
2. The President,
Madras Gymkhana Club,
No.1, Anna Salai,
Chennai 600 002.
3. The Vice President,
Madras Gymkhana Club,
No.1, Anna Salai,
Chennai 600 002.
4. The Secretary
Madras Gymkhana Club,
No.1, Anna Salai,
Chennai 600 002.

5. The Sub Secretary
Gymkhana Golf Annexe
Race Course Road,
Guindy, Chennai 600 032.

6. The Golf Captain
Gymkhana Golf Annexe
Race Course Road,
Guindy, Chennai 600 032.

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 25.02.2020 made in I.A.No.3 of 2020 in O.S.No.3737 of 2019 on the file of the VII Assistant Court, City Civil Court at Chennai.

For Petitioner : Dr. Vandana Parvez
party in person

For Respondents : Mr. B.Arvind Srevatsa

ORDER

This Civil Revision Petition has been filed against an order passed under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure, invoking the supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

2. Dr.Vandana Parvez, appears in person. She would contend that the order impugned in this Revision is on the face of it illegal and it is in violation of principles of natural justice as well as the mandatory requirements of law. She would therefore contend that a Revision under Article 227 would lie.

3. I am unable to accept her submissions for the reason that the Order in question is expressly made appealable under Order XLIII Rule 1 (r) of the Code of Civil Procedure. The Hon'ble Supreme Court in *Virudhunagar Hindu Nadargal Dharma Paribalana Sabai and Others v. Tuticorin Educational Society and Others*, reported in (2019) 9 SCC 538, considering the scope of a Revision under Article 227, has held that the High Court shall not interfere under Article 227, wherever an appellate remedy is made available under the Code of Civil Procedure. While considering the scope of a Revision under Article 227, vis-à-vis the availability of alternative remedy under the Code of Civil Procedure, the Hon'ble Supreme Court has held as follows:

“Therefore wherever the proceedings are under

*the Code of Civil Procedure and the forum is the Civil Court, the availability of a remedy under CPC, **will deter the High Court, not merely as a measure of self-imposed restriction, but as a matter of discipline and prudence, from exercising its power of superintendence under the Constitution.** Hence, the High Court ought not to have entertained the Revision under Article 227 especially in a case where a specific remedy of appeal is provided under the Code of Civil Procedure itself.”*

4. In view of the above categorical pronouncement of the Hon'ble Supreme Court, I do not think I can entertain this Revision. The Revision is therefore **dismissed** with liberty to the petitioner to move the appropriate Civil Court/Appellate Court. The Registry is directed to return the certified copies of the orders of the Trial Court to the petitioner at earliest. The petitioner is granted a month's time from today to file an Appeal before the Appellate Court.

5. Considering the fact that the petitioner is appearing in person, the Appellate Court is directed to entertain the Appeal without insisting upon an application for condonation of delay if it is file within a period of 30 days from today. It is also stated that as against an order made in IA No.2 of 2019, an Appeal has been filed before the City Civil Court and the same is pending before the XVIII Additional City Civil Court, Chennai. Mr.B.Arvind Srevatsa, learned counsel appearing for the respondent has no objection for the above course.

08.11.2021

jv

Index: No

Internet: Yes

Speaking order

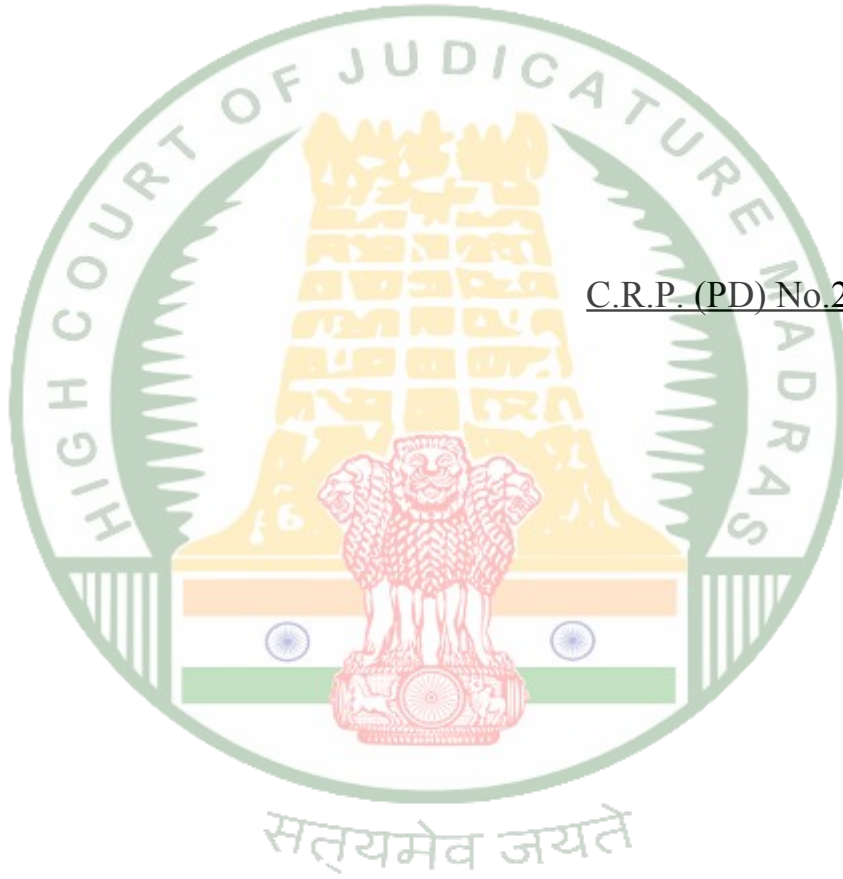
To

1. The VII Assistant Judge,
City Civil Court,
Chennai.
2. The Section Officer, V.R.Section,
High Court of Madras.

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R.SUBRAMANIAN, J.

jv



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