

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2021

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P.(NPD) No.1712 of 2021

1.Deepa Malini
2. Ashokkumar

...Petitioners

Vs.

1.Dhanalakshmi
2.Chithradevi
3.Murugesan
4.Sasikumar

...Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed in unnumbered OS No. ... of 2021 (CFR No.9203 of 2021), dated 26.07.2021 on the file of the Principal District Munsif Court, Coimbatore and number the suit.

For Petitioners : Mr. B.Gopalakrishnan

ORDER

This Civil Revision Petition is filed, to set aside the order passed in unnumbered OS No. ... of 2021 (CFR No.9203 of 2021), dated 26.07.2021 on the file of the Principal District Munsif Court, Coimbatore and number the suit.

2.The learned counsel for the petitioners submitted that the petitioners filed a suit against the defendants/respondents, seeking the relief of mandatory injunction, directing the respondents to return the cheques bearing Nos.006360 to 006372 drawn on Allahabad Bank, Edayarpalayam Branch, Coimbatore and cheques bearing Nos.588858 to 588904 drawn on State Bank of India, Edayarpalayam Branch, Coimbatore and the cheque Nos.000173 to 000174 drawn on HDFC Bank, Ramanathapuram Branch, Coimbatore, to the petitioners and also for the relief of permanent injunction to restrain the respondents, his men or agents acting on behalf of them from in anyway disturb the peaceful possession and enjoyment of the suit property by the petitioners.

3.The suit property is a house bearing Door No.13, Sangilikonar Thottam, Gandhinagar, Edayarpalayam, Coimbatore. The case of the petitioners is that the petitioners borrowed the hand loan of Rs.50,000/-, Rs.30,000/-, Rs.50,000/- and Rs.40,000/- respectively from the respondents 1 to 4 on 22.02.2020. At the time of borrowing the above stated loan amount, the petitioners gave the aforesaid cheques as security and they completed their liability on 10.01.2021. Even thereafter, the respondents are demanding

the loan amount and not returned the cheques. Therefore, the present suit is filed. He further submitted that the learned Trial Judge without considering the merits of the case, rejected the plaint. As against the rejection of plaint, the petitioners are before this Court with this Civil Revision Petition.

4.The learned counsel for the petitioners further submitted that though there was a loan transaction between the petitioners and the respondents, the petitioners have repaid the amount. Even after repayment, the cheques, which are given as security had not been returned to them and the respondents are trying to extract more money from the petitioners. Though the learned counsel for the petitioners admits borrowal of amount and says that the amounts had been repaid, it is seen from the list of documents produced along with the plaint, that no document has been produced for showing that the petitioners have repaid the amount. Obviously, the plaint has been filed to prevent the respondents from initiating the criminal proceedings, on the basis of the cheques, which is prohibited under Section 41 of the Specific Relief Act. The learned Trial Judge has also found that the suit is hit by Section 41 of the Specific Relief Act and there is no issue, which is civil in nature has arisen, to institute a suit. Though, it is alleged in the

plaint that the suit property is immovable property, there is no averments in the plaint as to when and how the respondents tried to interfere with the possession and enjoyment of the petitioners in the suit property. Further, it is seen that the suit is filed as a preventive measure, to prevent the respondents, not to proceed on the basis of the cheques, which are in their possession. The learned Principal District Munsif, Coimbatore, has rightly considered that there is no cause of action arisen to institute a suit and the issue involved in this case is hit by Section 41 of the Specific Relief Act.

5.In view of the above findings, this Court finds no reason to interfere with the order dated 26.07.2021 passed in unnumbered OS No. ... of 2021 (CFR No.9203 of 2021), and accordingly confirm the same.

6.In the result, this Civil Revision Petition is dismissed. No costs.

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Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

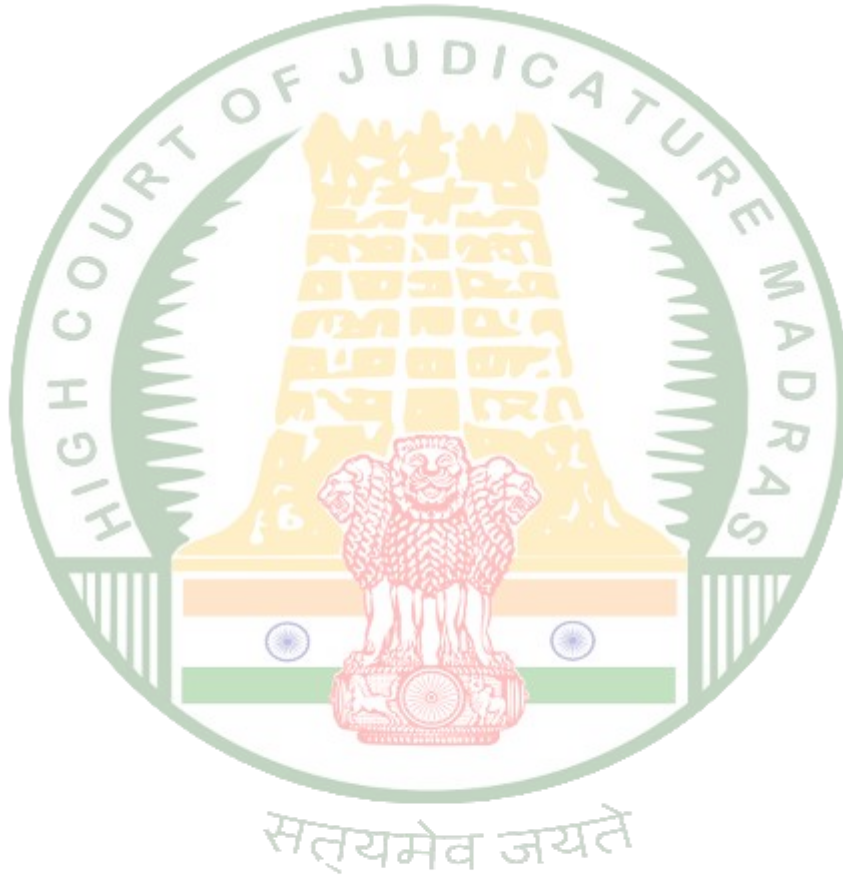
To

1.The Principal District Munsif Court, Coimbatore.

2.The Section Officer

VR Section

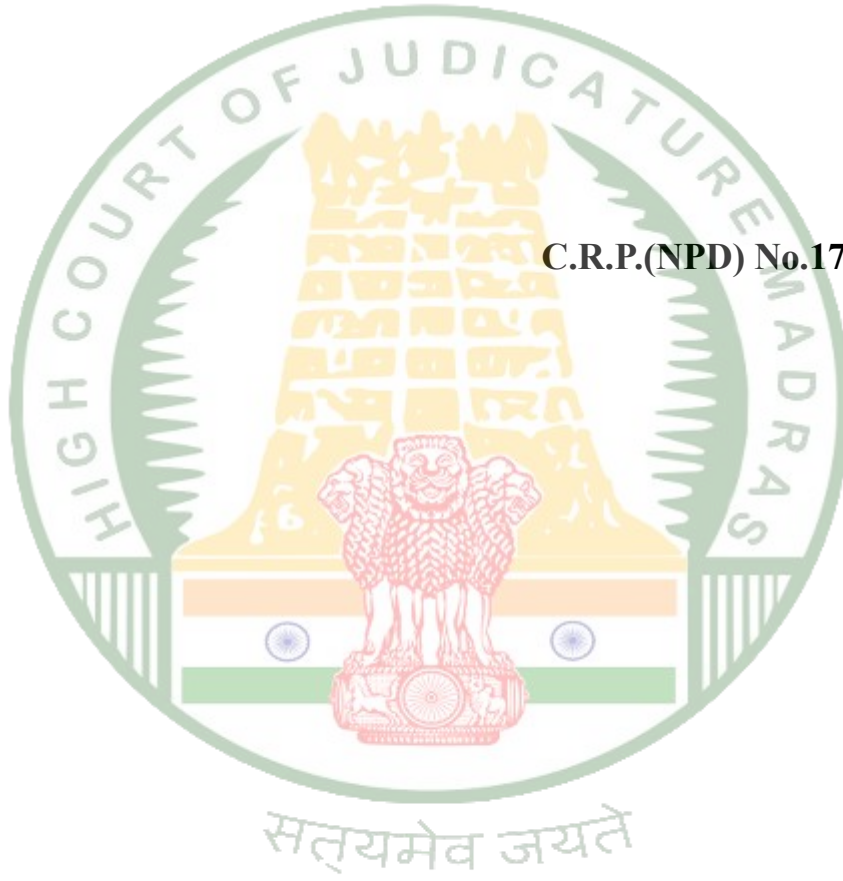
High Court of Madras.



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G.CHANDRASEKHARAN.J,

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