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CRP (PD) No. 2738 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.12.2021**

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (PD) No.2738 of 2021

and

CMP No.20003 of 2021

V.Nirmaladevi

... Petitioner/Petitioner/Defendant

Vs

Srinivasan

... Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the Fair and Decretal order made in I.A.No. 4 of 2020 in O.S.No. 349 of 2019 on the file of the IV Additional District and Sessions Judge, Thiruvallur @ Ponneri dated 10.03.2021.

For Petitioner : Mr. D.Veerasekaran

ORDER

Challenge in this revision is to the order of the learned Principal District Judge at Thiruvallur, dismissing the application filed by the defendant in O.S.No. 349 of 2019 seeking rejection of the plaint on the



ground that the Court has no territorial jurisdiction to try the suit.

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2. The suit is for recovery of a sum of Rs.21,02,700/- along with subsequent interest which according to the plaintiff become due and payable, due to the failure of the defendant to perform a contract for development of the property of the plaintiff.

3. The plaintiff claimed that the transaction took place at Redhills within the jurisdiction of the District Court at Thiruvallur. In the plaint also, the address of the plaintiff and the defendant were shown to be within the jurisdiction of the District Munsif, Madhavaram and District Munsif, Thiruvallur, respectively. The cause of action in the suit was based on the contract dated 05.07.2017 entered into between the parties.

4. According to the defendant, the contract was entered into at Chennai and the payments were made at Chennai and therefore, City Civil Court, Chennai, alone will have jurisdiction and the Court at Thiruvallur will not have jurisdiction. Rejection of the plaint was sought for on that ground.

5. The learned IV Additional District and Sessions Judge, Thiruvallur at Ponneri, who heard the application, dismissed the same on the



ground that the issue relating to jurisdiction will have to be gone into after trial and the same cannot form the basis of rejection of the plaint under Order VII Rule 11 of the Code of Civil Procedure.

6. Mr. D.Veerasekaran, learned counsel appearing for the petitioner would vehemently contend that when a suit is instituted in the Court had no jurisdiction, the plaint will have to be rejected under Order VII Rule 11 of the Code of Civil Procedure. He would also pointed out that there is no cause of action for the suit.

7. I have considered the submissions of the learned counsel.

8. Absence of jurisdiction of the Court in which proceedings are pending, cannot be a ground for rejection of a plaint under Order VII Rule 11 of the Code of Civil Procedure. If the issue relating to jurisdiction, particularly, territorial jurisdiction is raised, it has to be raised at the earliest point of time and the Court will have to rule upon it. If the Court does not possesses the territorial jurisdiction to try the suit, the plaint will have to be



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returned under Order VII Rule 10(1) of the Code of Civil Procedure for presented before the appropriate Court.

9. Order VII Rule 10 precedes Order VII Rule 11 of the Code of Civil Procedure and the language therein is mandatory since it uses the word 'shall'. Therefore, even under the Code of Civil Procedure, a plaint cannot be rejected by a Code for want of jurisdiction. Hence, the learned IV Additional District Judge, Thiruvallur at Ponneri, cannot be faulted for having dismissed the application. Hence, this Civil Revision Petition fails and the same is dismissed. However, it is made clear that the Court will frame an issue regarding jurisdiction and decide the issue without being influenced any of the observations made in the order impugned in this Civil Revision Petition or in this order. Consequently, connected Miscellaneous Petition is closed. No costs.

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vs

Index: Yes/No

Speaking order / Non speaking order

To:

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1. IV Additional District and Sessions Judge, Thiruvallur @ Ponneri

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2. The Section Officer,
VR Section,
Madras High Court, Chennai.



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R.SUBRAMANIAN, J.

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