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C.R.P(PD).No.2613 of 2021
and CMP.No.19412 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(PD).No.2613 of 2021

and

CMP.No.19412 of 2021

S.Anand Babu

..Petitioner

Vs.

1.Karpagam

2.Jeevitha

..Respondents

Praye: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order passed in IA.No.1 of 2019 in OS.No.1452 of 2018 on the file of the II-Additional District Munsif Court, Coimbatore dated 24.09.2021.

For Petitioner : Mr.K.Balaji

ORDER

Challenge in this revision is to the order, dismissing an application filed under Order VII Rule 11 of CPC.



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2.The suit was filed by the respondents herein seeking a declaration that they are the only legal heirs of one Sivasamy, who died on 29.10.1998. The plaintiffs in the suit claimed that the 1st plaintiff is the 2nd wife and the 2nd plaintiff is the daughter born to Sivasamy through the 1st plaintiff. The 2nd defendant, who is the petitioner herein is the son of said Sivasamy, born through his 1st wife, who is admittedly no more. The claim in the plaint is that the 1st plaintiff got married to Sivasamy after the death of his 1st wife. These are all the things which will have to be established through evidence. The application under Order VII Rule 11 of CPC is filed, seeking rejection of the plaint on the ground that the date of marriage has not been disclosed in the plaint. It is open to the defendant to raise all contentions in his written statement.

3.The suit claiming a legal right that too as a legal representative of the deceased person cannot be thrown out on technical grounds. Rejection of plaint on the ground of lack of pleadings or evidence will amount to abuse of the power vested in the Court. I do not see any error in the order of the Trial court. This civil revision petition therefore, fails and it



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is accordingly dismissed. No costs. Consequently, connected miscellaneous
petition is closed.

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02.12.2021

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Index:No
Internet:Yes
Speaking

To:-

The II-Additional District Munsif,
Coimbatore.



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R.SUBRAMANIAN, J.

KKN

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