

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.4226 of 2017

Velayutham

.. Petitioner

Vs.

Sellamuthu

.. Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 21.04.2017 made in I.A.No.302 of 2017 in O.S.No.187 of 1997 on the file of the District Munsif Judge, Perambalur.

For Petitioners : Mr.R.Venkatesulu
for M/s.Usharamman

For Respondent : Mr.S.Mohan

ORDER

(The matter is heard through 'video conferencing/hybrid mode')

This Civil Revision Petition is filed to set aside the fair and decreetal order dated 21.04.2017 made in I.A.No.302 of 2017 in

O.S.No.187 of 1997 on the file of the District Munsif Court, Perambalur.

2.The petitioner is defendant in O.S.No.187 of 1997 on the file of the District Munsif Court, Perambalur. The respondent filed the said suit for permanent injunction, restraining the petitioner from interfering with his peaceful possession and enjoyment of the suit property. The petitioner filed written statement on 21.10.1999 and additional written statement on 29.11.2016 and is contesting the suit. The petitioner, on 09.01.2017, filed I.A.No.302 of 2017 under Order VII Rule 11 of C.P.C., to reject the plaint in O.S.No.187 of 1997. According to the petitioner, the suit property belongs to him and is enjoying the suit property. He handed over the suit property to one Ramasamy, Duraisamy and Ponnusamy. With the permission of the petitioner, the said three persons were cultivating in the suit property. The said Ramasamy died issue less, Duraisamy died leaving his son Kulandhaivel; and Ponnusamy died leaving his sons Muthusamy and Krishnamoorthy. After their death, the legal heirs viz., Kulandhaivel, Muthusamy and Krishnamoorthy were enjoying the suit property and cultivating with the permission of the petitioner. They do

not have any title with regard to the suit property. Ramasamy did not have any right to sell 1 acre and 17 cents of suit property to Periyasamy in the year 1970. Similarly, Muthusamy and Krishnamoorthy, sons of Ponnusamy also did not have any right to sell 1 acre and 17 cents of suit property on 11.07.1984 to Periyasamy. The sale deeds dated 23.06.1970 and 11.07.1984 are executed without having any legal right and are void documents. The said documents are not binding on the petitioner.

2(i) The petitioner filed O.S.No.140 of 1997 against Kulandhaivel, Muthusamy, Krishnamoorthy, Periyasamy, Ramayee and Thangavel, for declaration and possession of the suit property. The said suit was decreed by the judgment and decree dated 16.09.2004. No appeal was filed against the said judgment and decree. Contrary to the decree dated 16.09.2004, the sale deed executed by Periyasamy in favour of the respondent is not valid. The said decree is binding on the respondent also. The sale deeds dated 11.07.1984 and 22.04.1997 are not legally valid documents. The present suit filed by the respondent against the petitioner is not correct and not valid. The present suit is barred by

Section 11 of C.P.C. and plaint has to be rejected. The cause of action for both the suits are one and the same and prayed for rejection of plaint in O.S.No.187 of 1997, filed by the respondent.

3.The respondent filed counter affidavit and stated that the respondent purchased the suit property by deed of sale dated 22.04.1997. The petitioner filed O.S.No.140 of 1997 on 30.04.1997, only against the vendors of the respondent and respondent was not added as party defendant in the said suit. The vendors of the respondent have no interest in the suit property on the date of filing of the suit. The alleged decree in O.S.No.140 of 1997 will not bind the respondent. The respondent, neither in the written statement nor in the additional written statement, raised this issue and it amounts to waiving of imaginary right. The petitioner has come out with the present I.A. at the appellate stage, when the suit was posted for cross-examination of P.W.1. Even after coming to know of the purchase by the respondent, the petitioner did not implead the respondent in the suit in O.S.No.140 of 1997. With collusion of the vendors of the respondent, the petitioner obtained decree in the said suit.

The said suit is not binding on the respondent. The petitioner has not filed any document. The documents filed are not connected to the suit property. None of the ingredients of Order VII Rule 11 of C.P.C. were attracted to the petition. The petition is not maintainable and prayed for dismissal of the I.A.No.302 of 2017. The learned Judge, by the order dated 21.04.2017, considering the averments in the affidavit, counter affidavit and plaint, provisions of C.P.C. viz., Section 11 and Order VII Rule 11, dismissed the I.A.

4. Against the said order of dismissal dated 21.04.2017 made in I.A.No.302 of 2017 in O.S.No.187 of 1997, the present Civil Revision Petition has been filed.

5. The learned counsel appearing for the petitioner submitted that the learned Judge failed to consider the decree dated 16.09.2004 made in O.S.No.140 of 1997, in favour of the petitioner, for declaration and possession against the respondent's wife and his vendors. In the said suit, the respondent filed E.A., challenging the decree in favour of the

petitioner. The suit in O.S.No.187 of 1997 filed by the respondent is for bare injunction. The suit in O.S.No.140 of 1997 is for declaration and possession. E.P. filed by the petitioner is for delivery of possession. The suit filed by the respondent is abuse of process of Court and irresponsible litigation. The learned Judge ought to have invoked Order VII Rule 11 of C.P.C., to reject the plaint for suppression of material facts and re-agitating the matter. The Court has got inherent powers to reject the vexatious litigations to save the time of the Court. The Hon'ble Apex Court held that re-litigation is an abuse of process of Court. Frivolous or vexatious proceedings amount to abuse of process of Court, especially where the proceedings are absolutely groundless. The Court has power to stop the said proceedings summarily in the I.A. filed under Order VII Rule 11 of C.P.C. and prevent the Court's time being wasted. The learned counsel for the petitioner submitted that the ground regarding the wife of the respondent made as a party to the suit in O.S.No.140 of 1997 was mistakenly raised in the Civil Revision Petition.

6.The learned counsel appearing for the petitioner, in support of

his contentions, relied on following judgments:

(i) **1996 (2) MLJ 259 [Thirumangai Naidu Vs. R.Srinivasan and others]:**

“17.....This decree having been affirmed by the first appellate court as also by this Court on account of the rejection of the second appeal in limine and having been considered and held in the present proceeding also that those earlier proceeding constituted res judicata, it was not proper for the lower appellate court to have restricted the applicability of the principle of res judicata only to a part or portion of the decree, namely, the declaration of title alone and not to the portion of the decree relating to recovery of possession. The previous judgment and decree having been for both reliefs, the relief of permanent injunction claimed in the present proceedings so as to stultify the decree for recovery of possession earlier granted by competent courts should be held to have been equally barred by the principle of res judicata engrafted in Sec.11 of the Code of Civil Procedure. To this extent the lower appellate court in my view committed a serious blunder and grave error of law and the judgment and decree of the lower appellate court are

liable to be set aside on this ground alone.”

(ii) **2021 (2) CTC 829 [V.Gowrishankar and another Vs.**

S.Balakumar and another];

“15.Point for consideration:-

Whether in a petition filed for rejection of the plaint under Order 7 Rule 11 of CPC, the Court can go into the question of re-litigation as to the prime aspect and point of limitation, simpliciter. The question as to whether re-litigation amounts to abuse of process of court is no longer res integra.

(i) The judgment reported in (1998) 3 S.C.C. 573 - [K.K.Modi Vs. K.N.Modi and Others], paragraph No.44 is usefully extracted hereunder. One of the examples cited as an abuse of the process of court is re-litigation. It is an abuse of the process of the court and contrary to justice and public policy for a party to C.R.P. (PD).No.937 of 2019 re-litigate the same issue which has already been tried and decided earlier against him. The re-agitation may or may not be barred as res judicata. But if the same issue is sought to be re-agitated, it also amounts to an abuse of the process of court.

(ii) In yet another decision that was reported in 2003 (4) CTC 347 - (K.K.Swaminathan Vs. Srinivasagam), paragraph No. 27 is usefully extracted hereunder:-

"27. One of the most abuse of process of the Court is re-litigation. It is an abuse of process of the Court and contrary to justice to re-litigate the same issue, which has already been tried and decided earlier against him. If the same issue is sought to be re-agitated by frivolous and vexatious suits, it

is not as if the Court is powerless to stop the proceedings when it is brought to its notice. O.S.No.2473 of 1996 is sheer abuse of process of the Court re-agitating the same issue, in my view, should not be allowed to continue.

(iii) Yet another decision reported in 2009 (5) CTC 710 : 2009 (5) LW 79 - [Tamil Nadu Handloom Weavers' Co-operative Society, rep. by its Managing Director, 350 Pantheon Road, Egmore, Chennai 8 Vs S.R.Ejaz, rep. By his Power Agent Muralidhar T.Balani], paragraph No.34, is usefully extracted hereunder:-

"Therefore, the second suit is barred not only on the ground that the issue raised in the said suit was directly in issue in the former suit between the parties or their predecessor-in-interest but also on the ground of a deeming fiction. The explanation IV to Section 11 of CPC was inserted with a specific purpose, to put an end to the litigation once for all. In the absence of such a provision, the parties would file suits after suits with new grounds. There should be finality to litigation. The principles of constructive res judicata would be applicable in such cases. In case parties are permitted to initiate re-litigation, it would have the effect of unsettling matters which were settled earlier."

(iv) In the judgment reported in Lakshmi and others vs. Prasanna Mani and others, 2011 (2) MWN (Civil) 363, in C.R.P.No.4311 of 2010, paragraph No.25 reads as follows:

"25.The above decisions will clearly establish that no party can be allowed to relitigate the matter."

16.What is 'abuse of the process of the Court'? Of course, for the term 'abuse of the process of the Court' the Code of Civil Procedure has not given any definition. A party to a litigation is said to be guilty of abuse of process of the Court, in any of the following cases:-

- (1) Gaining an unfair advantage by the use of a rule of procedure.
- (2) Contempt of the authority of the Court by a party or stranger.
- (3) Fraud or collusion in Court proceedings as between parties.
- (4) Retention of a benefit wrongly received.
- (5) Resorting to and encouraging multiplicity of proceedings.
- (6) Circumventing of the law by indirect means.
- (7) Presence of witness during examination of previous witness.
- (8) Institution vexatious, obstructive or dilatory actions.
- (9) Introduction of Scandalous or objectionable matter in proceedings.
- (10) Executing a decree manifestly at variance with its purpose and intent.
- (11) Institution of a suit by a puppet plaintiff.
- (12) Institution of a suit in the name of the firm by one partner against the majority opinion of other partners etc. (See

The Code of Civil Procedure - A.I.R. Commentary to [Section 151](#), C.P.C.)

The above are only some of the instances, where a party may be said to be guilty of committing abuse of the process of Court.

(i) In the decision reported in 1988 (2) KLT 732 - [Sreedharan Vs. Seethala], the Kerala High Court has an occasion to consider what is meant by abuse of process of Court and it was held as follows:

(a).The term "abuse of the process of the court" has not been defined.

(b).An abuse of the process of court can be committed by the court or by a party. It is therefore clear that where a court employed a procedure in doing something which it never intended to do, but resulted in miscarriage of justice, there is what is called an abuse of the process of the court.

(c).What then is an abuse of the process of the court committed by a party to the proceedings? Instituting vexatious, obstructive or dilatory action in court of law is one instance; where a party should be held to be guilty of an abuse of the multiplicity of proceedings for one's own aggrandisement is yet another instance where a party could be said to have committed an abuse of the process of the court."

(ii) The decision reported in 1998 (I) CTC 66 - [Ranipet Municipality Rep. By Its Comer. and Special Officer, Ranipet Vs. M.Shamsheerkhan], this Court has held has follows:

(a) If he did not ask for grant of that right, he should not be allowed to file a separate suit as and when an auction notice was issued. Such a

conduct on the part of the respondent is really an abuse of the process of Court.

(b) Such a conduct on the part of the respondent amounts to abuse of the process of the Court.

(iii) The Division Bench of Panjab and Haryana, in the decision reported in I.L.R Punjab and Haryana 1988(2), Volume 15, has held that:

"the general principles contained in Section 11, Order II, Rule 2, Order IX Rule 9 and Order XXIII Rule 1(4) of the Code which are based on justice, equity and good conscience do govern those proceedings. It is held that a second petition for the ejectment of the tenant on a ground on which an earlier petition was got dismissed as withdrawn without liberty to file a fresh petition would be barred and not maintainable."

Wherein, the Division Bench has taken note of the decision laid down by the Hon'ble Supreme Court reported in [1977 SC 789], which reads as hereunder:

"As has been repeatedly held by the Supreme Court and was reiterated in Lal Chand (dead) by LRs. And others v. Radha Kishnan:

"The principle of res judicata is conceived in the larger public interest which requires that all litigation must, sooner than later, come to an end. The principle is also founded on equity, justice and good conscience which require that a party which has once succeeded on an issue should not be permitted to be harassed by an multiplicity of proceedings involving determination of the same issue."

(iv) In the decision of the Hon'ble Supreme Court 1994 (5) SCC 355 - [Municipal Corporation of Delhi Vs. C.L.Batra], the suit was withdrawn without obtaining any leave for filing a

separate suit. While considering the same, in Paragraph of the judgment (at page 356 of the report), the Hon'ble Judge has said as follows:

"Secondly, the assess had filed a writ petition, praying for similar relief. When interim order was not granted on that writ petition, he withdrew the writ petition and filed this suit. This was an abuse of process of law. No liberty was obtained from the Court to file a suit on the same cause of action, when the writ petition was withdrawn." (Italics supplied)"

All the above decisions clearly established that no party can be allowed to re-litigate the matter and in such case, the Court shall reject the suit plaint under Order VII Rule XI of CPC and the point of rejection can very well be gone into in the petition for rejection of plaint, on the ground of abuse of process of Court."

7.Per contra, the learned counsel appearing for the respondent submitted that the application filed by the petitioner under Order VII Rule 11 of C.P.C. is without merits and is not maintainable. The respondent is not re-litigating the issue and contention of the petitioner that suit is hit by Section 11 of C.P.C., cannot be decided in an application filed under Order VII Rule 11 of C.P.C. The petitioner has not made out any case for rejection of plaint. The learned Judge, considering all the materials and provisions of C.P.C., rightly dismissed I.A. The

learned counsel for the respondent further submitted that the wife of the respondent was not a party to the suit. Only to get interim order, the petitioner has raised the said ground and prayed for dismissal of the Civil Revision Petition.

8.The learned counsel appearing for the respondent, in support of his contentions, relied on the judgment reported in **2021 SCC Online 565 [Srihari Hanumandas Totala Vs. Hemant Vithal Kamat and others]**:

“19. In a more recent decision of this Court in [Shakti Bhog Food Industries Ltd. v. Central Bank of India and Another](#), a three Judge bench of this Court, speaking through Justice AM Khanwilkar, was dealing with the rejection of a plaint under Order 7 Rule 11 by the Trial Court, on the ground that it was barred by limitation. The Court referred to the earlier decisions including in *Saleem Bhai v. State of Maharashtra*⁹, *Church of Christ Charitable Trust (supra)*, and observed that

“18. It is clear that in order to consider Order 7 Rule 11, the court has to look into the averments in the plaint and the same can be exercised by the trial court at any stage of the suit. It is also clear that the averments in the written statement are immaterial and it is the duty of the Court to scrutinize the averments/pleas in the plaint. In other words, what needs to be looked into in

deciding such an application are the averments in the plaint. At that stage, the pleas taken by the defendant in the written statement are wholly irrelevant and the matter is to be decided only on the plaint averment. These principles have been reiterated in [Raptakos Brett & Co. Ltd. v. Ganesh Property](#), (1998) 7 SCC 184 and [Mayar \(H.K.\) Ltd. v. Vessel M.V. Fortune Express](#), (2006) 3 SCC 100.”

20. On a perusal of the above authorities, the guiding principles for deciding an application under Order 7 Rule 11(d) can be summarized as follows:

- (i) To reject a plaint on the ground that the suit is barred by any law, only the averments in the plaint will have to be referred to;
- (ii) The defense made by the defendant in the suit must not be considered while deciding the merits of the application;
- (iii) To determine whether a suit is barred by res judicata, it is necessary that (i) the ‘previous suit’ is decided, (ii) the issues in the subsequent suit were directly and substantially in issue in the former suit; (iii) the former suit was between the same parties or parties through whom they claim, litigating under the same title; and (iv) that these issues were adjudicated and finally decided by a court competent to try the subsequent suit; and
- (iv) Since an adjudication of the plea of res judicata requires consideration of the pleadings, issues and decision in the ‘previous suit’, such a plea will be beyond the scope of Order 7 Rule 11 (d), where only the statements in the plaint will have to be perused.”

9.Heard the learned counsel appearing for the petitioner as well as the respondent and perused the entire materials available on record.

10.From the materials on record, it is seen that the petitioner, who is a defendant in the present suit in O.S.No.187 of 1997, filed I.A.No.302 of 2017 under Order VII Rule 11 of C.P.C., to reject the plaint. According to the petitioner, he is owner of the suit property. Having inherited the same, he permitted Ramasamy, Duraisamy and Ponnusamy to cultivate in the land. After their death, their legal heirs viz., Kulandhaivel, Muthusamy and Krishnamoorthy, with permission of the petitioner, cultivated in the land and are in possession of the suit property. The said three persons or their legal heirs did not have any right or title in the suit property. Ramasamy, by the deed of sale dated 23.06.1970, sold 1 acre and 17 cents of the suit property to one Periyasamy. Similarly after the death of Ponnusamy, his sons viz., Muthusamy and Krishnamoorthy sold another 1 acre and 17 cents by sale deed dated 11.07.1984 to said Periyasamy. Similarly, the said Periyasamy, without any right over the extent of land purchased by void sale deed, sold the same to the

respondent, by sale deed dated 22.04.1997. The petitioner filed suit against Kulandhaivel, Muthusamy, Krishnamoorthy, Periyasamy and Thangavel, including one Ramayee, for declaration and possession. The said suit was decreed on 16.09.2004. It is the contention of the petitioner that in view of the decree dated 16.09.2004 in O.S.No.140 of 1997, the sale deeds referred to above have become void. The cause of action in both the suits are one and the same and hence, the suit filed by the respondent in O.S.No.187 of 1997 is barred by principles of *res judicata*, as per Section 11 of C.P.C. On these grounds, the petitioner has sought for rejection of plaint filed by the respondent. It is well settled that the Court has power as per Order VII Rule 11 of C.P.C., to reject the plaint at the threshold itself summarily, without conducting any trial. But defendant must satisfy any one of the ingredients mentioned in Order VII Rule 11 of C.P.C. The said provision reads as follows:

“11. Rejection of plaint— *The plaint shall be rejected in the following cases: (a) where it does not disclose a cause of action;*

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so; (d) where the suit appears from the statement in the plaint to be barred by any law :

[Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper , as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.] ”

11. According to petitioner, his claim is that the suit filed by the respondent is barred by principles of *res judicata* and hence, the plaint has to be rejected. A reading of the Order VII Rule 11 of C.P.C. shows that there is no provision for rejecting the plaint on the ground that suit is hit by *res judicata*. Further, the question of *res judicata* is mixed question of law and fact and the same cannot be decided in the application filed under Order VII Rule 11 of C.P.C. The same can be decided only after conclusion of trial, considering the evidence that is let in at the time of

trial. Further, the petitioner has filed suit in O.S.No.140 of 1997 for declaration and possession, whereas the suit filed by the respondent is for permanent injunction, restraining the petitioner from interfering with his possession and enjoyment, as he has purchased the suit property by the sale deed dated 22.04.1997 and in possession and enjoyment of suit property. The relief sought for in both the suits are also different. The petitioner filed O.S.No.140 of 1997 on 30.04.1997. The petitioner has not made the respondent as party in the said suit. Further, when the petitioner received summons and entered appearance in the present suit and filed written statement on 21.10.1999, he knew that the respondent is claiming to be the owner of suit property. Having knowledge of purchase of respondent by the sale deed dated 22.04.1997 from Periyasamy, the petitioner did not implead the respondent as party defendant in the suit in O.S.No.140 of 1997, filed by him. Further, when the respondent filed the present suit, the suit filed by the petitioner was pending and it was not decided. The respondent filed suit for injunction, restraining the petitioner from interfering with his peaceful possession and enjoyment of the suit property. Section 11 of C.P.C. reads as follows:

“11. Res judicata— No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.

Explanation I.—The expression "former suit" shall denote a suit which has been decided prior to the suit in question whether or not it was instituted prior thereto.

Explanation II.—For the purposes of this section, the competence of a Court shall be determined irrespective of any provisions as to a right of appeal from the decision of such Court.

Explanation III.—The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.

Explanation IV.—Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.

Explanation V.—Any relief claimed in the plaint, which is not expressly granted by the decree, shall, for the purposes of this section, be deemed to have been refused.

Explanation VI.—Where persons litigate bona fide in

respect of public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating.

Explanation VII.—The provisions of this section shall apply to a proceeding for the execution of a decree and reference in this section to any suit, issue or former suit shall be construed as references, respectively, to proceedings for the execution of the decree, question arising in such proceeding and a former proceeding for the execution of that decree.

Explanation VIII.—An issue heard and finally decided by a Court of limited jurisdiction, competent to decide such issue, shall operate as res judicata in as subsequent suit, notwithstanding that such Court of limited jurisdiction was not competent to try such subsequent suit or the suit in which such issue has been subsequently raised.”

12.A reading of said Section makes it clear that issue in both the suits or persons claiming through party in the earlier suit must be one and the same and earlier suit must be finally decided. None of the ingredients mentioned in Section 11 of C.P.C. is present so as to hold that the suit filed by the respondent is barred by principles of *res judicata*. It is repeatedly held that while considering the application for rejection of

plaint under Order VII Rule 11 of C.P.C., only the averments in the plaint and documents filed along with the plaint must be considered to decide or to reject the plaint in the I.A. filed under Order VII Rule 11 of C.P.C. The contention of the defendants in the written statement or in the affidavit filed in support of application under Order VII Rule 11 of C.P.C and documents relied on by the defendants in the application cannot be considered in the application for rejection of plaint. Only when the ingredients of Order VII Rule 11 of C.P.C is substantially complied with by the defendant, the plaint can be rejected, as the Court is passing order in a summary manner, without there being any evidence. The petitioner, in the grounds of revision, raised various grounds, mostly with regard to his title of the suit property. The petitioner raised a ground that the respondent's wife was a party to the suit in O.S.No.140 of 1997 filed by him. At the time of arguments, the learned counsel appearing for the petitioner stated that the said ground has been raised mistakenly. The learned counsel appearing for the petitioner contended that the respondent is re-litigating the issue, suppressed the material fact and has not approached the Court with clean hands and therefore, the plaint must

be rejected. There is no material to show that the respondent is re-litigating the issue and what are all the materials he has suppressed. The issue whether plaint can be rejected on the ground of *res judicata* was considered by the Hon'ble Apex Court in paragraph no.20 of the judgment relied on by the learned counsel for the respondent, reported in **2021 SCC Online 565 (cited supra)**. In sub para (iv) of the said paragraph no.20, the Hon'ble Apex Court categorically has held that "plea of *res judicata* requires consideration of the pleadings, issues and decision in the 'previous suit' and such a plea is beyond the scope of Order VII Rule 11 (d) of C.P.C., where only the statements in the plaint will have to be perused". In view of these categorical finding of the Hon'ble Apex Court, the contention of the learned counsel for the petitioner that the plaint has to be rejected, in the application filed under Order VII Rule 11 of C.P.C., on the ground of *res judicata* is without merits and is liable to be rejected. The judgments relied on by the learned counsel for the petitioner do not relate to the issue in the present proceedings and do not advance the case of the petitioner. The learned Judge has considered all the materials in proper perspective, exercised

his jurisdiction properly and dismissed the I.A. There is no error in the order of the learned Judge, warranting interference by this Court.

13.The learned counsel appearing for the respondent submitted that pending Civil Revision Petition, the suit is transferred to the District Munsif-cum-Judicial Magistrate Court, Vepanthattai, Perambalur District and hence, prayed for speedy disposal of the suit. Considering the fact that the suit is of the year 1997, the learned District Munsif-cum-Judicial Magistrate, Vepanthattai, is directed to dispose of the suit in O.S.No.187 of 1997 as expeditiously as possible, in any event, not later than six months from the date of receipt of a copy of this order.

For the above reason, the Civil Revision Petition is dismissed. No costs.

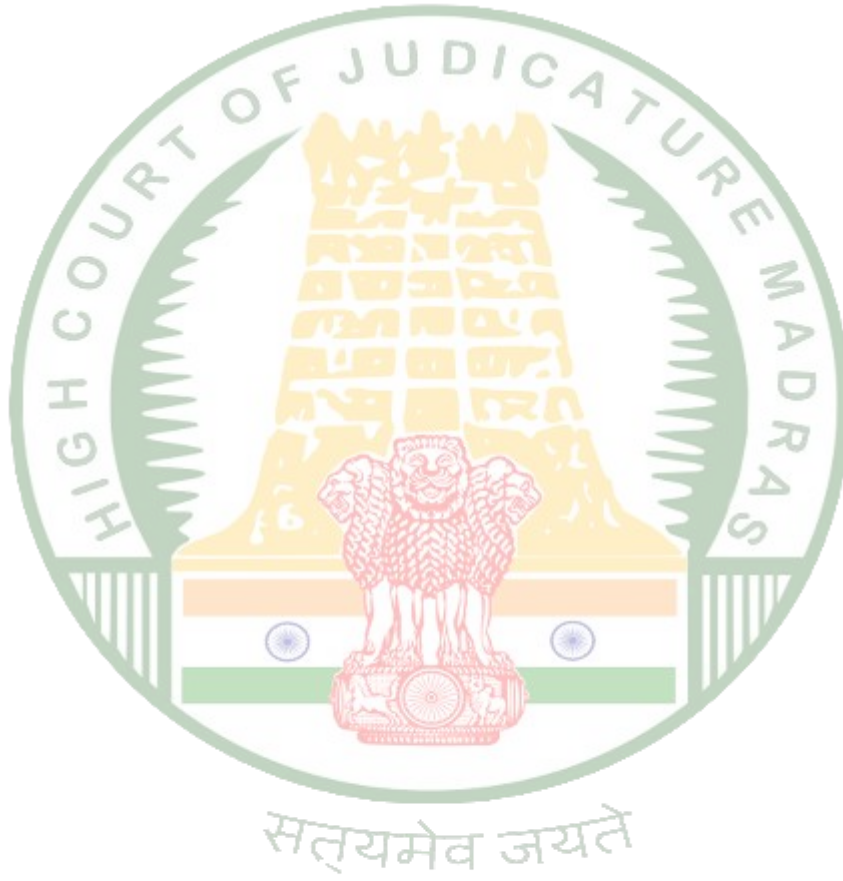
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06.09.2021

To

The District Munsif,
Perambalur.

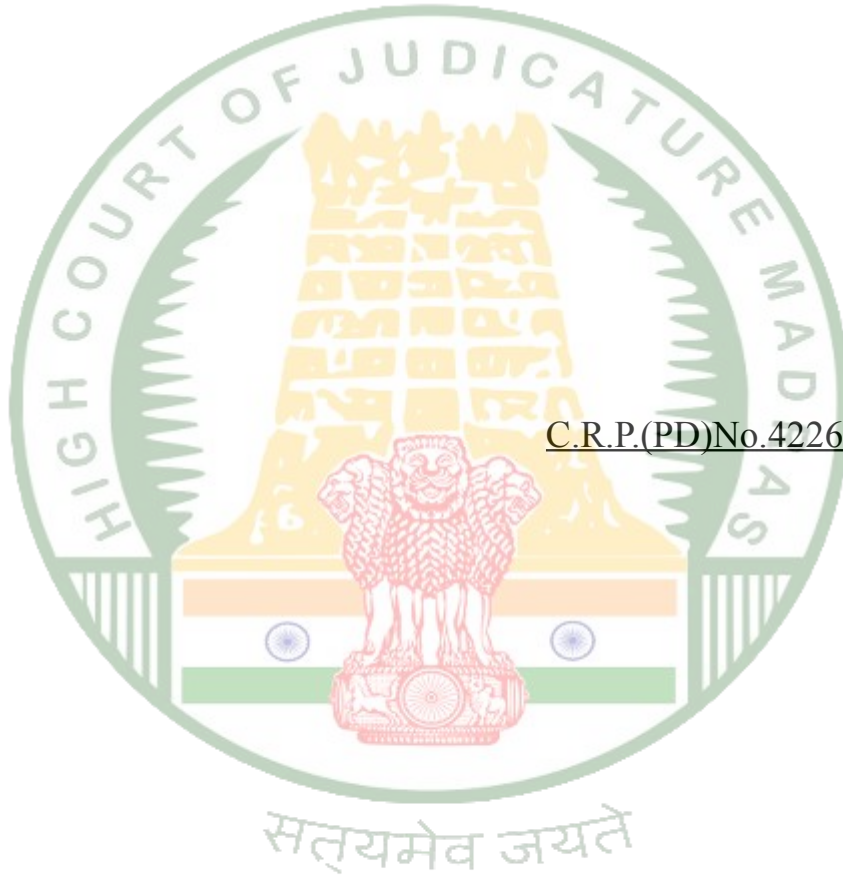


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