



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 08.07.2021
PRONOUNCED ON : 26 .08.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CRP (MD)No.1413 of 2014
MP (MD)No.1 of 2014
(Through Video Conferencing)

1.R.Saraswathy Ammal

2.Rathinam

... Petitioners

Vs

P.Arjunan

... Respondent

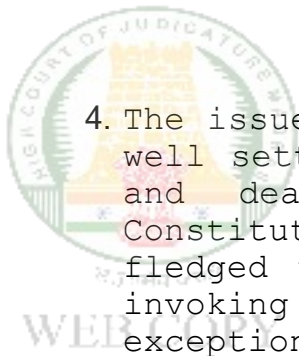
Prayer:- This Civil Revision Petition has been filed under Article 227 of Constitution of India praying this Hon'ble Court, to direct the lower court strike down the Plaint in OS.No.55 of 2014, on the file of the District Munsif, Vadipatti, by allowing this CRP.

For Petitioner : Mr.P.Jessi Jeeva Priya

For Respondent : No appearance

ORDER

- 1.This Civil Revision Petition has been filed by the Defendants, to strike off the Plaint in OS.No.55 of 2014 filed for declaration of title and for permanent injunction, on the file of the District Munsif, Vadipatati.
- 2.This court heard the learned counsel for the Petitioners and considered his submissions and also carefully perused the materials placed on record. There is no representation for the Respondent.
- 3.According to the Petitioners, in the light of the provisions of Order VII Rule 11, Order IV Rule 1 and Order VI of CPC and the averments made in the paragraph 5 of the Plaint and when the Respondent seeks to declare his rights on the basis of the unregistered sale deed, dated 13.06.1967 and when declaration of title could not be made on the basis of the unregistered document and when the rights of the parties had already been declared in the earlier suit in OS.No.280 of 1996, the Plaint ought to be rejected on the principles of res-judicata.



4. The issues raised by the Petitioners herein are contentious. It is well settled that contentious issues or facts cannot be discussed and dealt in a Petition filed under Article 227 of the Constitution of India and they have to be decided after a full fledged trial. Only when a Party, seeking to reject the plaint, invoking Article 227 of the Constitution of India, shows exceptional circumstances for exercise of such jurisdiction, the High Court would embark on any enquiry in exercise of power under Article 227 of the Constitution of India,
5. Further, on a perusal of the provisions of Order VII Rule 11 of CPC, it is manifestly clear in this case that the Petitioners have got an alternative remedy of filing an application under Order 7 Rule 11 of CPC for rejection of Plaint before the Court below. Therefore, when there is such a statutory alternative remedies available and when the matter is to be dealt with reference to the facts and circumstances, the Petitioners, instead of availing such remedies, have erroneously approached this Court, invoking the Article 227 of the Constitution of India. This Court can refuse to exercise its jurisdiction under Article 227 of the Constitution of India only when this Court finds exceptional circumstances. As stated above, the issues raised by the Petitioners are not exceptional circumstances, but contentious issues, which are to be decided on its own merits. If at all, they can file an application for rejection of the Plaint, along with the materials before the Court below itself.
6. In fine, this Civil Revision Petition is dismissed. However, liberty is given to the Petitioners to file an application for rejection of the Plaint before the court below, within a period of two weeks from the date of receipt of a copy of this order and on such application being filed, the court below is directed to dispose of the same, on merits and in accordance with law, within a period of three months thereafter. No costs. Consequently, the connected MP is closed.

Sd/-

Assistant Registrar (AE)

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Sub Assistant Registrar(CS)

Srcm

To

1. The District Munsif, Vadipatti

CRP (MD) No.1413 of 2014
26.08.2021

RK (13.09.2021) 2P 2C

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