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CRP No.1183 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 15.06.2022

Pronounced on : 14.07.2022

CORAM

THE HONOURABLE Mrs. JUSTICE S.KANNAMMAL

C.R.P.No.1183 of 2021

N.Jeyakumar

...

Petitioner

-vs-

1.R.Nagarajan

2.The District Collector,
Tiruppur District,
Tiruppur.

3.The Tahsildar,
Udumalaipettai,
Tiruppur District.

4.The Village Administrative Officer,
Udumalaipettai,
Tiruppur District.

5.The Revenue Divisional Officer,
Government College Road,
Udumalaipettai.

6.Union of India,
rep.by its Secretary,
Ministry of Road Transport and Highways,
New Delhi.

7.The Chief Engineer,

<https://www.mhc.tn.gov.in/judis>



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National Highways Authority of India,
Ministry of Road Transport and Highways,
New Delhi.

8.The Project Director cum
Deputy General Manager,
National Highways Authority of India,
Dindigul.

9.The Authorised Officer &
Special District Revenue Officer,
Land Acquisition,
National Highways,
Dindigul.

...

Respondents

Prayer: Civil Revision Petition is filed to strike off the plaint in O.S.No.343 of 2018 on the file of Sub-Judge, Udumalaipet.

For Petitioner	.. Mr.P.Krishnan for Mr.N.Manoharan
For Respondent 1	.. Mr.D.R.Arun Kumar
For Respondents 2,3,4,5 & 9	.. Mr.E.Vijay Anand, Addl.Govt.Pleader.
For Respondent 8	.. Mr. Su. Srinivasan

ORDER

First defendant in the suit in O.S. No. 343 of 2018 on the file of Sub-Judge, Udumalaipet, is the petitioner herein.

2. Prayer in the suit filed by the first respondent/plaintiff before the trial Court is for :



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(i) declaration of title of the plaintiff and for consequential permanent injunction, restraining the defendants 6 to 9 from disbursing the compensation amount to the first defendant in respect of the suit property measuring 72 ½ cents in S.F.No.228/B, Udumalaipet Village ;

(ii) mandatory injunction directing the defendants 2 to 5 to effect mutation of the revenue records relating to the property measuring 72 ½ cents in S.F.No.228/B, Udumalaipet Village, in the name of the plaintiff ;

(iii) mandatory injunction directing the defendants 6 to 9 to disburse the compensation for the acquisition of the suit property measuring 72 ½ cents in S.F.No.228/B in the name of the plaintiff ; and

(iv) permanent injunction restraining the first defendant from interfering with the plaintiff's peaceful possession and enjoyment of the suit property measuring 72 ½ cents in S.F.No.228/B, Udumalaipet Village.

3. This petition is filed not against any order of the Court below having been aggrieved, but, it is filed to strike off the plaint *in toto* in O.S.No.343 of 2018 on the file of Sub-Court, Udumalaipet, without locus. This Court is not inclined to entertain this Civil Revision Petition, as the remedy sought for herein is very much available to the petitioner before the trial Court and, without exhausting the same at the Court of first instance, he has approached



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this Court by overstepping the jurisdiction. If the petitioner is aggrieved over the filing of the plaint, he can seek the remedy against it before the trial Court for rejection of the plaint under Order 7 Rule 11 of the Code of Civil Procedure, instead of filing this Civil Revision Petition before this Court under Article 227 of the Constitution of India.

4. The jurisdiction under Article 227 of the Constitution of India is an extraordinary jurisdiction, which is to be exercised sparingly and in appropriate cases, and it is not to be exercised as if it were an appellate jurisdiction or as if it gives unfettered and unrestricted power to the High Court to entertain a petition of this nature. It is true, despite the existence of an alternative legal remedy, the High Court may interfere in an application under Article 227 of the Constitution, but, this is certainly not one of such extraordinary cases.

5. It is needless to mention that the revision petitioner has filed a written statement opposing the plaint. Even though it was contended in the written statement that the plaint is not maintainable, he has not chosen to seek for framing appropriate issue to decide the maintainability of the plaint as a preliminary issue. The revision petitioner-defendant ought to have raised the



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issue as regards the maintainability of the plaint before the Court below to be decided as a preliminary issue and in the event of such a plea having been refused, then he can approach this Court.

6. Civil Revision Petition is, therefore, dismissed, with liberty to the petitioner to file an appropriate application before the trial Court for the relief sought in this revision petition, in which case, the trial Court is directed to deal with the same on merit, untrammelled by the dismissal of this petition, as the said dismissal is not on merit, but for overstepping of jurisdiction. No costs. Consequently, the connected C.M.P.No.9074 of 2021 also stands dismissed.

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To

Sub-Judge,
Udumalaipet.



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S.KANNAMMAL, J.

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