



C.R.P. (PD) No.1512 of 2021
and CMP No.11857 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Civil Revision Petition (PD) No.1512 of 2021
and CMP No.11857 of 2021

1. M. Kishanlal

2. K. Meetha

.. Petitioners

Vs.

1. K.Pushpavalli @
Elizabeth Pushpavalli

2. S.Nigila Devi

3. Ms.Radha Kannan

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to strike-off the plaint in OS No.21 of 2020 on the file of the Subordinate Judge Court, at Thiruvallur.



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For Petitioners : Mr.T.T.Ravichandran

For Respondent : Mr.V.Raghavachari

ORDER

The petitioners seek to invoke the extraordinary supervisory jurisdiction of this Court under Article 227 of Constitution of India, to strike out the plaint in OS No.21 of 2020 on the file of the Subordinate Court, Thiruvallur.

2. According to Mr.T.T.Ravichandran, learned counsel appearing for the petitioners, this is an extraordinary case, where the plaint has to be thrown out in exercise of the power under Article 227 of the Constitution of India. He would submit that the rights of the parties have crystalised by the judgment of this Court in OSA No.56 of 1961 dated 29.07.1969 and hence the present suit is not maintainable.



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3. The Hon'ble Supreme Court as well as this Court have repeatedly held that Order VII Rule 11 of the Code of Civil Procedure is not exhaustive and a plaint can be rejected on grounds other than the ones enumerated Order VII Rule 11 also. The Hon'ble Supreme Court in *Virudhunagar Hindu Nadargal Dharma Paribalana Sabai and Others v. Tuticorin Educational Society and Others*, reported in (2019) 9 SCC 538, has held that the High Court will refrain from exercising jurisdiction under Article 227 of the Constitution of India, not merely as a measure of self-imposed restriction, but as a matter of discipline and prudence, when a remedy under the code of Civil Procedure is available to the party approaching the High Court. I am therefore of the considered opinion that this is not a fit case to exercise jurisdiction under Article 227 of the Constitution of India.

4. Leaving it open to the petitioners to approach the Trial Court with an application under Order VII Rule 11 seeking rejection of the petition, this Civil Revision Petition is **dismissed**. If an application is filed under Order VII Rule 11, the learned Subordinate Judge, Thiruvallur, will dispose of the application within the period of three months from the date of its filing. No



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costs. Consequently, the connected miscellaneous petitions are closed.

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Index: Yes/No

Internet: Yes/No

Speaking order/Non Speaking Order

To

1. The Subordinate Court,
Thiruvallur.
2. The Section Officer,
V.R.Section,
High Court of Madras.



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