



C.R.P(PD).No.2432 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P.(PD).No.2432 of 2022
and C.M.P.No.12603 of 2022

S.Thulasiammal

... Petitioner

..Vs..

N.Prabhu

...Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of Constitution of India, to strike of the plaint in O.S.No.721 of 2022 on the file of the learned Principal District Munsif, Coimbatore.

For Petitioner : Mr.E.Sathiyaraj

ORDER

This Civil Revision Petition has been preferred to strike of the plaint in O.S.No.721 of 2022 on the file of the learned Principal District Munsif, Coimbatore.



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2.The revision petitioner is the defendant, against whom, the respondent /plaintiff has filed the suit in O.S.No.721 of 2022 for seeking the relief of permanent injunction.

3.The learned counsel for the petitioner submitted that on the same cause of action in respect of the same property, the same plaintiff has earlier filed a suit in O.S.No.1057 of 2020 and the suit was allowed to be dismissed as not pressed. In view of the settlement arrived out of the Court and by suppressing the above fact, the plaintiff has once again filed a suit in O.S.No.721 of 2022 and the same is not maintainable.

4.At the time when the suit is filed, the trial Judge may not be aware of the fact about the earlier suit unless the defendant appears before the Court and produced the relevant documents. For any reason, if the revision petitioner claims that the present suit is not maintainable, he is always at liberty to file a petition under Order VII Rule 11 CPC and avail the remedy under the Civil Procedure Code. Had the trial Court knowingly taken the suit on file, despite the plaintiff produced the order of dismissal that was made in the earlier suit, then the exercising jurisdiction might be wrong. The case has been taken on file



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only on the basis of the averments made in the plaint.

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5. Reliance is placed on a decision of the Hon'ble Supreme court in *Virudhunagar Hindu Nadargal Dharma Paribalana Sabai & Others Vs. Tuticorin Educational Society & Others* reported in *2019 (9) SCC 538* wherein it has been held that the High Court should not, as a matter of discipline and prudence, exercise the power of superintendence under Article 227 of the Constitution of India, when there is a remedy available under the Code of Civil Procedure before the trial Court.

6.7. In view of the above discussion, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

03.08.2022

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Index: Yes No

Speaking Order: Yes/No

R.N.MANJULA,J.

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- 1.The Principal District Munsif,
Coimbatore.
- 2.The Section Officer,
VR Section, Madras High Court,
Chennai.

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