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CRP.No.3223 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.3223 of 2022

and

CMP.No.17137 of 2022

1.Deivanandam

2.D.Thirumeni

3.D.Ravi

... Petitioners

Vs.

N.Marappa Gounder

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to struck off the plaint in O.S.No.269 of 2020 pending on the file of the V Additional District Munsif Court, Coimbatore.

For Petitioner : Mr.S.C.Vishwanth



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CRP.No.3223 of 2022

ORDER

This Civil Revision Petition is filed seeking to strike out the plaint in O.S.No.269 of 2020 pending on the file of the IV Additional District Munsif Court, Coimbatore.

2. According to the revision petitioners, earlier the petitioners filed a suit for bare injunction in O.S.No.2751 of 2006 on the file of the II Additional District Munsif, Coimbatore, against the respondent in respect of the very same property and the said suit was decreed on 11.08.2015. The said decree was challenged by the respondent herein unsuccessfully in the first appeal in A.S.No.57 of 2015 on the file of the I Additional Subordinate Judge, Coimbatore. Subsequently, the respondent herein filed the present suit for declaration and injunction in respect of the very same property.



CRP.No.3223 of 2022

WEB COPY

3. According to the learned counsel for the petitioners, if the respondent has got any grievance in respect of the decree passed against him in the earlier suit, he has to challenge the same by filing an appeal and it is not open to him to file another suit for declaration of title and injunction in respect of the very same property. The petitioners' earlier suit is only for bare injunction, and the present suit filed by the respondent is for declaration of title and injunction. Therefore, the second suit filed by the respondent is comprehensive one. Whether, the earlier suit filed by the revision petitioners herein would operate as resjudicata on the subsequent comprehensive title suit is a question which has been decided by the Court below at the time of final disposal of the suit based on the evidence available on records. Therefore, this Court is not inclined to strike out the plaint, hence, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.



WEB COPY



CRP.No.3223 of 2022



WEB COPY



CRP.No.3223 of 2022

S.SOUNTHAR, J.

dna

4. The learned counsel for the petitioners is at liberty to raise all the points before the Court below.

13.10.2022

Index : Yes / No

Internet : Yes / No

dna

To

- 1.The I Additional Subordinate Judge, Coimbatore
2. The II Additional District Munsif, Coimbatore
- 3.The V Additional District Munsif Court, Coimbatore.

CRP.No.3223 of 2022

and

CMP.No.17137 of 2022

5/4



WEB COPY



CRP.No.3223 of 2022



WEB COPY



CRP.No.3223 of 2022

CRP.No.3288 of 2022

13.10.2022



WEB COPY



CRP.No.3223 of 2022

12.10.2022