



WEB COPY



C.R.P.No.3208 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.R.P.No.3208 of 2022

and

C.M.P.No.17076 of 2022

V.Thangasamy

.. Petitioner

Vs.

1.Thamarai Selvam

2.Lingavel

3.Balaraman

4.Indhirani

5.Inspector of Police

Ammapettai Police Station,
Ammapettai,
Salem District-636 003.

6.Commissioner of Police

Salem City,
Annadhanapatti,
Salem District- 636 002.

7.District Collector,

Salem District,
District Collector Office,
Salem District- 636 001.

.. Respondents



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PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, pleaded to struck off the plaint in O.S.No.434 of 2022 on the file of III Additional District Munisif, Salem on the ground of abuse of process of Court.

For Petitioner : Mr. V.Chandraprabu

For Respondent : No Appearance for R1 to R4

: Mr.Dr.S.Suriya
Additional Government Pleader for R5 to R7

ORDER

This Civil Revision Petition has been filed seeking to strike out the plaint in O.S.No.434 of 2022 on the file of the III Additional District Munsiff, Salem.

2. The 1st respondent herein who is a daughter-in-law of revision petitioner herein filed a suit for declaration that the suit property is a shared household and also for declaration that she is entitled to reside in the suit property till her life time and for consequential injunction restraining revision petitioner and other respondents from interfering peaceful possession of the 1st respondent over the suit property and her right to enjoy the same as per the provision of the Domestic Violence Act.



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3. The learned counsel for the petitioner submitted that the suit filed by the 1st respondent is not maintainable. If the 1st respondent wants to seek direction under the provisions of the Domestic Violence Act, she has to file appropriate application before the Court constituted under the said Act and not before the Civil Court.

4. This Court is not inclined to entertain the revision petition to strike out the plaint mainly on the ground that the revision petitioner has got effective remedy to seek rejection of the plaint by filing appropriate application before the Court below under Order 7 Rule 11 of C.P.C. It is settled law whenever there is remedy available to the petitioner before regular Civil Court under C.P.C, he ought not to have rushed to the High Court by invoking Article 227 of Constitution of India, as held in *Virudhunagar Hindu Nadargal Dharma Paribalana Sabai versus Tuticorin Educational Society* reported in *(2019) 9 SCC 538*. When effective remedy is available before regular Civil Court under C.P.C., there is a near total bar for exercise of supervisory jurisdiction under Article 227 of the Constitution of India. Hence, this Court is not inclined to exercise it's supervisory jurisdiction to strike out the plaint in O.S.No.434 of 2022. Therefore, I am not inclined to entertain the revision. However, it is open to the revision petitioner to file an appropriate application for rejection of the plaint, if so advised.



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S.SOUNTHAR, J.

Jai

With these observations, this Civil Revision Petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

10.10.2022

Index: Yes/ No

Speaking Order / Non-Speaking Order

jai

To

1. The III Additional District Munsif,
Salem.
2. Inspector of Police
Ammapettai Police Station,
Ammapettai, Salem District-636002.
3. Commissioner of Police
Salem City, Annadhanapatti,
Salem District- 636 002.
4. District Collector,
Salem District, District Collector Office,
Salem District- 636 001

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