



CRP.(PD).No. 4459 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2022

CORAM:

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

CRP.(PD).No. 4459 of 2017

and

C.M.P.No. 21039 of 2017

Therasa

...Petitioner

Versus

1. Josephine

2.M/s. Bharati Airtel Limited

Rep. by its Manager,

H.R. Department.

No.101, Oceanic Towers

Santhome High Road

Chennai.

...Respondents

Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, praying to set aside the fair and decretal order dated 23.10.2017 passed in I.A.No.5405 of 2017 in O.S.No. 302 of 2017 on the file of XII Assistant Judge, City Civil Court, Chennai.

For Petitioner : No Appearance

For R1 : Mr.T.Saikrishnan

For R2 : No Appearance



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ORDER

This revision is filed to set aside the fair and decretal order dated 23.10.2017 passed in I.A.No.5405 of 2017 in O.S.No. 302 of 2017 on the file of XII Assistant Judge, City Civil Court, Chennai.

2.None appeared on behalf of the revision petitioner herein is the 2nd defendant and the 2nd respondent herein is the 1st defendant in the suit proceedings.

3.Heard the learned counsel appearing for the first respondent/plaintiff and perused the materials available on record.

4.On perusal of the records, it reveals that the 1st respondent/plaintiff has filed the suit in O.S.No. 302 of 2017 before the XII Assistant Judge, City Civil Court, Chennai, for declaration and mandatory injunction against the defendants therein. During the pendency of the suit proceedings, the petitioner/2nd defendant filed an interlocutory application in I.A.No.5405 of 2017 under Order VII Rule



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11 (a) of CPC, to reject the plaint for want of cause of action and jurisdiction to try the present suit. After perusing the records, the Court below dismissed the said application by its order dated 23.10.2017 on the ground that there was no cause of action to file the present suit. Challenging the said order, the petitioner has come forward with the present revision.

5. On a further perusal of the impugned order, it is seen that there was some civil dispute between the 1st respondent/plaintiff and the petitioner/2nd defendant. The plaintiff is the mother-in-law of the revision petitioner herein. The said suit was filed by the plaintiff who is the mother-in-law based on the legal heir ship certificate. On a further perusal of the averments made in the plaint, the plaintiff has got jurisdiction to try this case. The 2nd respondent who was the employer of her deceased son was having office at Chennai, thereby if more than one Court has got jurisdiction, the party can choose anyone of the Courts to file a case. The 1st respondent/plaintiff has chosen the Court at Chennai to file a case. The next defence taken by the petitioner/2nd



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defendant is that there was "no cause of action" to file the present suit and presently, the suit is posted for trial, which is pending before the Court below. Furthermore, the revision petitioner has approached this Court to strike off the plaint without exhausting remedy before the trial. Therefore, the present revision is not maintainable either in law or on facts and there is no illegality or irregularity in the order passed by the Court below. Hence, this Court is not inclined to allow this revision and the same is liable to be dismissed.

6. Accordingly, the Civil Revision Petition is dismissed with the above terms. It is open to the revision petitioner/2nd defendant to work out her remedy before the Court below in the manner known to law. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed

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msm

Index : Yes/No

Speaking order : Yes/No



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To

1. The XII Assistant Judge, City Civil Court, Chennai.
2. The Section Officer, V.R. Section
High Court, Madras.



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T.V.THAMILSELVI, J.

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