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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.07.2022**

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

A.S(MD)No.97 of 2009

Ravindran

:Appellant/Plaintiff

.VS.

1.S.Rajagopal

2.S.Chellam

3.C.Susila

:Respondents/Defendants

PRAYER: First Appeal filed under Section 96 of the Civil Procedure Code against the judgment and decree made in O.S.No.503 of 2004, dated 8.10.2007, on the file of Additional District Judge(Fast Track Court-II), Madurai.

For Appellant

:Mr.M.P.Senthil

For Respondents

:No appearance

JUDGMENT

This appeal suit is directed against the judgment and decree made in O.S.No.503 of 2004, dated 8.10.2007, on the file of Additional District Judge(Fast Track Court-II), Madurai.



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2. Heard the learned counsel for the appellant and perused the materials placed before this Court.

3. The appellant filed a suit in O.S.No.503 of 2004 for partition. That suit was rejected. Therefore the appellant has filed the present appeal suit as against the order of rejection of plaint passed by the trial Court. The trial Court has rejected the plaint only on the ground that the plaint does not disclose the cause of action. A careful reading of the grounds of appeal filed by the appellant and also the plaint filed by the appellant/plaintiff along with the documents, clearly shows that the plaint does not disclose a cause of action, therefore, it is liable to be rejected under Order VII Rule 11(a) of Civil Procedure Code, since the plaint does not disclose a cause of action, the trial Court has rightly rejected the plaint. While rejecting the plaint, the trial Court has to see only the averments made in the plaint and not the defense taken by the defendants and that the plaintiff has to establish that the plaint discloses cause of action for him to file the suit.

4. This Court, as an appellate Court, on going through the averments contained in the plaint, where, it is seen that the plaint



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does not disclose a cause of action for filing the suit. The plaintiff has not made out a case that the plaint disclose a cause of action, despite averments being made in the plaint, the trial Court has failed to appreciate the averments and rejected the plaint. Therefore, in these circumstances, this Court finds no merit in the appeal suit and hence, the appeal suit is liable to be dismissed.

5. Accordingly, the appeal suit stands dismissed. No costs.

22.07.2022

Index:Yes/No

Internet:Yes/No

vsn

To

1. The Additional District Judge,
(Fast Track Court-II),
Madurai.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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P.VELMURUGAN.,J.

vsn

JUDGMENT MADE IN
A.S(MD)No.97 of 2009

22.07.2022