



CRP(NPD)(MD)No.897 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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and

C.M.P.(MD)No.3563 of 2022

1. Geetha
2. A.Muhilarasan
3. A.Mukesh
4. V.Anjammal

... Revision Petitioners

versus

1. S.Nirmala Rani
2. S.Arthi
3. S.Surthi
4. State Bank of India,
Thanjavur Branch,
Rep. by its Branch Manager,
Opposite to Govt. Rajamirasdar Hospital,
Thanjavur.
5. State Bank of India,
Ammapettai Branch,
Rep. by its Branch Manager,
Ammapettai,
Pabanasam Taluk,
Thanjavur District.



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6. S.Karunakaran

... Respondents

Civil Revision Petition filed under Section 115 of Civil Procedure Code, against the dismissal order dated 22.01.2022 passed in Transfer O.P.No.20 of 2022 by the learned Principal District Judge, Thanjavur.

For Revision
Petitioners : Mr.N.Balasubramanian

ORDER

This Civil Revision Petition is filed against the order dated 22.01.2022 passed in Transfer O.P.No.20 of 2022 on the file of the learned Principal District Judge, Thanjavur.

2. The revision petitioners have filed a suit in O.S.No.84 of 2020 by invoking summary procedure under Order 37 C.P.C, seeking the relief of permanent injunction, mandatory injunction and cancellation of sale deed dated 19.02.2013. The case of the revision petitioners is



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that without following the procedure as prescribed under Order 37 C.P.C., the trial Court permitted the defendants/respondents herein to file a petition for rejection of plaint. Aggrieved over the same, the revision petitioners filed Transfer Original Petition in Tr.O.P.No.20 of 2022 before the learned Principal District Judge, Thanjavur. However, the learned Principal District Judge, Thanjavur, without considering the procedures prescribed under Order 37 C.P.C., wrongly dismissed the Transfer Petition, by order dated 22.01.2022. Aggrieved over the same, the present Civil Revision Petition is filed.

3. The learned counsel appearing for the revision petitioners submits that the trial Court has not complied with the procedure as contemplated under Order 37 C.P.C. Therefore, the suit may be referred to some other Court.

4. Heard the learned counsel appearing for the revision petitioners and perused the order passed by the learned Principal



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District Judge, Thanjavur.

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5. The revision petitioners have filed a suit in O.S.No.84 of 2020 by invoking summary procedure under Order 37 C.P.C, seeking the relief of permanent injunction, mandatory injunction and cancellation of sale deed dated 19.02.2013.

6. As per Order 37 Rule 1 (2) C.P.C., summary suit can be filed only in two types of cases, i.e. (i) suits based on bills of exchange, hundies, promissory notes and (ii) to recover a debt, liquidated demand payable in money by the defendant on a written contract and on a guarantee.

7. The Hon'ble Apex Court in the case of ***Neebha Kapoor vs. Jayantilal Khandwala and others*** reported in ***AIR 2008 SC 1117***, held as follows:

“8..... We have no doubt in our mind that the



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underlying public policy behind Order 37 is expeditious disposal of suits of commercial nature. It provides for such disposal as expeditiously as possible by prescribing time frame therefore. Where, however, applicability of Order 37 of the Code itself is in question which appears to be the principal reason behind the impugned judgment, in our opinion, grant of leave may be permissible. The court before passing a decree was entitled to take into consideration the consequences therefore.”

8. A suit under Order 37 C.P.C. has to be filed only with respect to commercial issues for a speedy remedy. But, in this case, the suit in O.S.No.84 of 2020 is filed for permanent injunction, mandatory injunction and cancellation of sale deed dated 19.02.2013, which does not come under the proviso of Order 37 C.P.C.

9. Further, though the present suit is filed by invoking summary procedure under Order 37 C.P.C, leave can be granted by the Court, if the subject matter of the suit itself is not complied with the



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requirements under Order 37 C.P.C.. Therefore, the trial Court has rightly dismissed the Transfer Original Petition.

10. Accordingly, the Civil Revision Petition is dismissed. However, the trial Court is directed to proceed with the trial and dispose of the suit as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

20.06.2022

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Index : Yes / No
Internet: Yes / No.

To

1. The learned Principal District Judge,
Thanjavur.



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B.PUGALENDHI, J.

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