



CRP(MD)No.1091 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(MD)No.1091 of 2022

and

CMP(MD)No.4350 of 2022

1. Krishnamoorthy
2. Periyasamy

... Petitioners

versus

1. Karala Gounder
2. The Sub Registrar,
Joint No.1, Sub Registration Office,
Collectorate,
Thanthonimalai,
Karur.
3. The District Registrar,
District Collectorate,
Thanthonimalai,
Karur.
4. The Tahsildar,
Manmangalam Taluk,
Karur District.



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5. The Village Administrative Officer,
Koyampalli Village,
Manmangalam Taluk,
Karur District.

6. The Revenue Divisional Officer,
Karur District.

7. The District Collector,
Collectorate,
Thanthonimalai,
Karur.

... Respondents

Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records relating to O.S.No.46 of 2022 on the file of the Additional District Munsif Court, Karur and strike off the same.

For Petitioners : Mr.K.Suresh
For R1 : Mr.J.Sathiya Raj
For R2 to R7 : Mr.M.Sarangan,
Additional Government Pleader

ORDER

This Civil Revision Petition has been filed to strike off the suit in O.S.No.46 of 2022 pending on the file of the learned Additional District Munsif, Karur.



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2. The revision petitioners herein are defendants 1 and 2 in O.S.No.46 of 2022 on the file of the learned Additional District Munsif, Karur. The said suit has been filed by the first respondent/plaintiff for the relief of injunction with regard to the suit schedule property in Survey No.713 of Koyampalli Village, Karur. For the very same relief of injunction with regard to the same subject suit schedule property, the first respondent/plaintiff had already filed a suit in O.S.No.192 of 2009 before the learned District Munsif, Karur, which was dismissed, by Judgment and Decree dated 30.01.2012. Aggrieved over the same, the first respondent/plaintiff preferred an Appeal Suit in A.S.No.67 of 2012 before the learned Principal Subordinate Judge, Karur, which was allowed by Judgment and Decree dated 09.04.2013. Challenging the same, the revision petitioners/defendants 1 and 2 filed a Second Appeal in SA(MD)No. 511 of 2013 before this Court. This Court, by Judgment and Decree dated 05.03.2021, allowed the second appeal by setting aside the Judgment and Decree dated 09.04.2013 passed by the learned



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Subordinate Judge, Karur. Thereafter, the first respondent/plaintiff has also filed a Special Leave Petition before the Hon'ble Supreme Court in SLP No.1329 of 2022, which was also dismissed on 14.09.2022. In the meantime, by referring the Special Leave Petition, the first respondent/plaintiff has filed the above suit in O.S.No.46 of 2022 before the learned Additional District Munsif, Karur, stating that challenging the Judgment and Decree dated 05.03.2021 passed in SA(MD)No.511 of 2013, he is taking steps to file a Special Leave Petition before the Hon'ble Supreme Court, at that time, the revision petitioners/defendants 1 and 2 made an attempt to dispossess him from the suit property on 21.10.2021. To strike off the said suit in O.S.No. 46 of 2022, the revision petitioners/defendants 1 and 2 have filed the present Civil Revision Petition before this Court.

3. The learned counsel appearing for the revision petitioners submits that the relief sought for in the present suit in O.S.No.46 of 2022 is a relief in the previous suit and it has been attained finality in



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the previous suit. Further, the present suit is filed by the first respondent/plaintiff only on the cause of action that he is taking steps to file a Special Leave Petition before the Hon'ble Supreme Court. But, the Special Leave Petition preferred by the first respondent/plaintiff in SLP No.1329 of 2022 was dismissed by the Hon'ble Supreme Court on 14.09.2022. Therefore, the present suit is not maintainable and the same is liable to be struck off.

4. This Civil Revision Petition has been periodically adjourned at the request of the learned counsel for the first respondent. Even today, a representation is made on behalf of the learned counsel for the first respondent seeking further adjournment.

5. This Court considered the submissions made by the learned counsel appearing for the petitioners and also perused the materials placed on record.



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6. As rightly pointed out by the learned counsel appearing for the petitioners, for the very same subject suit schedule property, the first respondent/plaintiff had already filed the suit in O.S.No.192 of 2009 before the learned District Munsif, Karur, wherein, he suffered a decree, which was also confirmed upto the Hon'ble Supreme Court in SLP No.1329 of 2022. Now, the present suit in O.S.No.46 of 2022 has been filed by the first respondent/plaintiff for the very same relief on the same subject suit schedule property, wherein, a cause of action has been mentioned by him that challenging the Judgment and Decree dated 05.03.2021 passed in SA(MD)No.511 of 2013, he was taking steps to file a Special Leave Petition, at that time, the revision petitioners/defendants 1 and 2 made an attempt to dispossess him from the suit property on 21.10.2021. But, the fact remains that the Special Leave Petition preferred by the first respondent/plaintiff in SLP No. 1329 of 2022 was dismissed by the Hon'ble Supreme Court on 14.09.2022. Therefore, the present suit filed by the first respondent/plaintiff in O.S.No.46 of 2022 is barred by *res judicata* and



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the same is liable to be struck off.

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7. Accordingly, the Civil Revision Petition is allowed and the suit filed by the first respondent/plaintiff in O.S.No.46 of 2022, which is pending on the file of the learned Additional District Munsif, Karur, is ordered to be struck off. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No.

Internet : Yes / No.

To

1. The Additional District Munsif Court,
Karur.



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