



WEB COPY



CRP.No.3497 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.No.3497 of 2017

and

CMP.No.16260 of 2017

P.B.Sarveswari

... petitioner

Vs.

Radhakrishnan

... Respondent

PRAYER:

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decree dated 19.01.2016 passed in IA.No.3864 of 2015 in OS.No.7181 of 2014 by the XIII Assistant Judge, City Civil Court, Chennai and to restore the suit in OS.No.7181 of 2014.

For Petitioner : Mr.N.Sreenivasalu

For Respondent : Mr.P.B.Balaji

ORDER

This civil revision petition has been filed to set aside the order and decree dated 19.01.2016 passed in IA.No.3864 of 2015 in OS.No.7181 of 2014 by



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the XIII Assistant Judge, City Civil Court, Chennai and to restore the suit in

OS.No.7181 of 2014.

2. The learned counsel for the petitioner reported no instruction from the party.

3. The petitioner filed suit for mandatory injunction and for declaration in respect of the suit property. While pending the suit, the respondent herein filed application to strike off the plaint on the ground of *res judicata*. On perusal of records, revealed that the petitioner already filed suit in OS.No.9094 of 2008 and the same was decreed. Aggrieved by the same, appeal suit was filed in AS.No.408 of 2011 and the same was allowed and the judgment and decree passed by the trial court was set aside. However, there was no second appeal filed by the petitioner herein. While being so, the petitioner filed the present suit for the very same relief in respect of the very same property. Therefore, the present suit is hit by principles of *res judicata* since the issue involved in the present suit was already decided in the earlier suit. Therefore, the court below rightly rejected the plaint on the principles of *res judicata*. Hence, this Court finds no infirmity or illegality in the order passed by the court below.



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4. Accordingly, this civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

12.01.2023

Speaking/non-speaking

Index : Yes/No

Internet : Yes

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G.K.ILANTHIRAIYAN, J.

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To
XIII Assistant Judge, City Civil Court,
Chennai

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