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**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 08.12.2023

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**THE HON'BLE MRS. JUSTICE T.V. THAMIL SELVI**

CRP.No.4427 of 2023  
and  
CMP.No.26750 of 2023

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V. Ramathal

... Petitioner

Vs.

1. B.Bagyalakshmi  
2. Kanchana

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 07.09.2023 made in I.A. No.11 of 2023 in I.A. No. 3 of 2019 in O.S. No. 194 of 2019 on the file of I Additional District Judge, Coimbatore.

For Petitioner : Mr. P .Saravana Sowmiyan  
For Caveators : Mr. A.E. Ravi Chandran

**ORDER**

The petitioner has filed this petition to set aside the order dated 07.09.2023 made in I.A. No. 11 of 2023 in I.A. No. 3 of 2019 in O.S. No. 194 of 2019 on the file of I Additional District Judge, Coimbatore.



2. Before the trial Court the petitioner has filed an application in I.A. No. 3 of 2019, seeking to reject the plaint on the ground that in the earlier compromise, he obtained possession from the plaintiff, however, now suppressing all the facts, the present suit has been filed. Therefore, she wants to reject the suit as there is no cause of action and also by relying the findings of the earlier proceedings. According to the petitioner, the suit is hit by the principles of res judicata and it is not maintainable.

3. During the pendency of the said application, he filed I.A. No. 11 of 2023 in I.A. No. 3 of 2019 in O.S. No. 194 of 2019, seeking permission to receive the following documents, namely,

- i. Affidavit filed by the deceased Maruthathal in SLP.No.18738 of 2014 (certified Copy).
- ii. Affidavit filed by the 2<sup>nd</sup> respondent Kanchana in SLP.No.18738 of 2014 (Certified Copy).
- iii. Judgment in SLP.No.18738 of 2014 (Civil Appeal No.10741 of 2017)
- iv. Fair and Final order in EP.No.717 of 2017
- v. Order passed in CRP.No.2427 of 2018
- vi. Fair and Final Order in E.P.No.634 of 2018.
- vii. Order passed in CRP.No.1573 of 2021.



viii. Special Leave petition and affidavit in SLP.No.1912 of 2022 and

1913 of 2022 filed by the 1<sup>st</sup> respondent (Booklet)

ix. Order in SLP.No.1912 of 2022 and 1913 of 2022.

4. The application was objected by the plaintiff stating that if the defendants want to reject the plaint he must rely upon only the averments in the plaint and beyond that he has no right to raise objection. The defendants can rely the documents which are all enclosed in the plaint, instead, now the 2<sup>nd</sup> defendant filed application to receive the documents which is beyond scope of Order VII Rule 11 of CPC and the same cannot be permissible.

5. On hearing both sides the learned trial Judge held that for considering an application under Order VII Rule 11 of CPC plaint averments can be examined. Therefore, the permission sought by the defendants to receive the document as such is not maintainable as it is against the provision of law and dismissed the application for reception of documents. Aggrieved by the same the revision petitioner has preferred this revision.

6. The learned counsel for the revision petitioner/2<sup>nd</sup> defendant submits



that she has raised substantial grounds in the application for rejection of the plaint and to substantiate the same, she wants to produce the documents which were already relied by the plaintiff. The plaintiff, along with the plaint, has only produced part of the documents and therefore the documents mentioned in the petition are connected with the plaint averments, but the learned trial Judge failed to appreciate the same and erroneously dismissed the application. Hence, she prays to set aside the findings of the learned trial Judge.

7. By way of reply the learned counsel for the plaintiff submitted that under Order VII Rule 11 the Court can look into the averments made in the plaint alone and the documents produced along with the plaint. Furthermore, the second defendant contends that the suit is hit by the principles of resjudicata and the same could not be decided in an application under Order VII Rule 11 of CPC. For this proposition, reliance was placed on the Judgment of *the Hon'ble Supreme Court of India, in the case of Keshav Sood vs. Kirti Pradeep Sood & others, in Civil Appeal No.5841 of 2023 (Arising out of SLP. Civil No.35740 of 2017)*, which reads as follows:

*“ 5.As far as scope of Rule 11 of order VII of CPC is concerned, the law is well settled. The Court can look into only the averments made in the plaint and at the highest, documents produced along with the plaint. The defence of a*



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*defendant and documents relied upon by him cannot be looked into while deciding such application.*

*6. Hence, in our view, the issue of res judicata could not have been decided on an application under Rule 11 of Order VII of CPC. The reason is that the adjudication on the issue involves consideration of the pleadings in the earlier suit, the judgment of the Trial Court and the judgment of the Appellate Courts. Therefore, we make it clear that neither the learned single Judge nor the Division Bench at this stage could have decided the plea of res judicata raised by the appellant on merits.”*

8. The second defendant seeks to receive certain documents for consideration of an application under Order VII Rule 11 of CPC. According to the second defendant, she produced 9 documents which pertain to SLP. No. 18738 arising out of Civil Appeal No.10741 of 2017 and E.P. No. 717 of 2017 and other connected CRP. No. 2427 of 2018. She also relied on two other orders passed in SLP. Nos. 1912 of 2022 and 18738 of 2014, which are connected to the order in Civil Appeal No.10741 of 2017.

9. On a perusal of the plaint averments, it reveals that, the plaintiff relied on the judgement copy in Civil Appeal No.10741 of 2017 but has not mentioned about the SLP proceedings against the appeal order. The second



defendant has produced those documents, which are relied by the revision petitioner relating to connected proceedings of the appeal No. 10741 of 2017 which was filed by the plaintiff in the plaint as document No.13. Therefore, the document which is relied is not a new one and it was already covered under the plaint documents. Therefore, the revision petitioner is entitled to produce the document to prove her claim. The authority relied by the respondent is not applicable to the present case. Accordingly, the findings rendered by the learned trial Judge is set aside. I.A. is allowed.

10. Accordingly, this Civil Revision Petition is allowed. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

08.12.2023

Index : Yes/No

Speaking order / Non speaking order

Neutral Citation: Yes/No

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To

1. The I Additional District Judge, Coimbatore.
2. The Section Officer, VR Section,  
High Court of Madras.

**T.V.THAMIL SELVI, J.**



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