



C.R.P.(MD).No.642 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 09.11.2023

Delivered on: 01.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

C.R.P.(MD)No.642 of 2019

C.Prithivirajan

... Revision Petitioner / Plaintiff

Vs.

1.Sonakanvilai Sekara President,

C.S.I.Pastor House, Sonakanvilai,

2.Rev.John Thomas

3.The Treasurer,

Election Investigation team,

Tuticorin – Nazareth Diocese

4.The Bishop,

Tuticorin – Nazareth Diocese,

5.S.Gnanraj

... Respondents / Defendants

Prayer:-Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 28.11.2018 made in unnumbered O.S.No... of 2018, on the file of the Principal District Munsif, Tuticorin.



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For Petitioner : Mr.B.Muruganandam
For Respondents : Mr.A.Ajith Geethan for R1, 3 & 4
: No appearance for R2
: Mr.S.R.Sathan Boopathy for R5

ORDER

The plaintiff, whose suit was rejected by the Principal District Munsif, Tuticorin even at the stage of numbering, is the revision petitioner.

2. The grievance of the revision petitioner / plaintiff is that the trial Court ought to have numbered the suit and not rejected the plaint, even at the stage of numbering. It is the further case of the revision petitioner that the suit was maintainable under Section 9 of the Code of Civil Procedure and it was only for the defendants to come up with any application to reject the plaint, if they so desired.

3. This Court ordered notice to the respondents and the respondents 1, 3 ,4 and 5 have come forward to contest the revision by engaging counsel. I have heard Mr. B.Muruganandam, learned counsel for



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the revision petitioner, Mr.A.Ajith Geethan, learned counsel for the respondents 1,3 ,4 and Mr.S.R.Sathan Boopathy, learned counsel for the 5th respondent. I have also perused the records.

4. The learned counsel for the revision petitioner would submit that the suit was not expressly barred by any law and therefore, the trial Court ought to have numbered the suit. He placed reliance on the following decisions:

(i) judgment of the Hon'ble Supreme Court in ***State of Andra Pradesh V. Manjeti Laxmi Kantha Rao*** reported in ***AIR-2000-SC-2220***, where the Hon'ble Supreme Court held that normal rule of law is that civil Courts should take up all civil cases except those of which cognizance is expressly or impliedly excluded as provided under Section 9 of the Code of Civil Procedure. It is further held that such exclusion is not readily inferred and the presumption to be drawn must be in favour of the existence rather than exclusion of jurisdiction of the civil Courts to try such civil suit.

(ii) judgment of this Court in ***R.Manickam V. The Sengunthar Charitable Trust, rep. by its Secretary*** reported in ***2009-5-CTC-550***,



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where this Court held that before registering a plaint, the Court should only ascertain whether the procedural requirement for filing the suit is complied with by the plaintiff and once the Court finds that there is a proper compliance on that score, the Court has no other alternative than to register the plaint.

(iii) judgment of the Hon'ble Supreme Court in ***Ramesh Gopindram (deceased by LRs.) V. Sugra Humayun Mirza Wakf*** reported in ***AIR-2010-SC-2897***, where the Hon'ble Supreme Court reiterated the ratio laid down in the said ***State of Andra Pradesh V. Manjeti Laxmi Kantha Rao*** referred herein above.

Placing reliance on the above decisions, the learned counsel for the revision petitioner would submit that the trial Court ought not to have rejected the plaint and prayed for the revision being allowed.

5. Per contra, the learned counsel for the contesting respondents, would submit that the plaint as framed was hit by Section 34 of the Specific Relief Act, 1963 and therefore, consequently a bar under Section 9 of the Code of Civil Procedure stands created, thus dis-entitling to the



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plaintiff to the relief prayed for in the suit.
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6. The learned counsel for the 5th respondent, Mr.S.R.Sathan Boopathy, would also invite my attention to the decision of this Court in ***C.R.P.(MD)No.SR22678 of 2021 (V.Sakkarai V. Paulraj), dated 13.07.2021***, where in similar circumstances, this Court held that when a suit was rejected, though before its numbering, the remedy was only by way of an appeal and not by recourse to Article 227 of the Constitution of India. The learned counsel for the contesting respondents would pray for dismissal of the revision.

7. I have paid my anxious and careful consideration to the rival submissions advanced by the learned counsel on either side. I have also gone through the various judgments on which reliance is placed by the respective counsel.

8. The above revision has been preferred invoking Article 227 of



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Constitution of India. It is seen from the records that the trial Court has rejected the plaint on 28.11.2018, being dissatisfied with the reasons assigned by the learned counsel for the revision petitioner in support of the compliance of the returns made by the Court, questioning the maintainability of the suit. Once a plaint is rejected by the Court, the settled position of law is that it is a decree within the meaning of Section 2 (2) of the Code of Civil Procedure. A decree is appealable under the Code of Civil Procedure and as rightly contended by the learned counsel for the 5th respondent relying on *V.Sakkarai's* case, the remedy open to the plaintiff in such a case would only be to file an Appeal in accordance with the provisions of the Code of Civil Procedure and the revision under Article 227 of the Constitution of India, is not maintainable.

9. Insofar as the decision on which the revision petitioner placed reliance, the ratio laid down in *R.Manickam's* case arose on different facts, where the plaint was not rejected. In the two decisions of the Hon'ble Supreme Court, on which the revision petitioner places reliance, the Hon'ble Supreme Court has laid down the general rule with regard to the applicability of Section 9 C.P.C. and the ratio laid down in both the



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cases does not come to the aid of the revision petitioner.

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10. In view of the above, the revision being held not maintainable, I am not going into the merits of the respective contentions put forth by the parties, leaving it open to the Appellate Court to decide the same on merits and without being influenced by any of the observations made herein above.

11. In fine, the Civil Revision Petition is dismissed with liberty to the revision petitioner to prefer an Appeal under the appropriate provisions of the Code of Civil Procedure. It is also made clear that the time consumed in prosecuting the above revision shall be condoned by the Appellate Court on a formal application for condonation of delay being filed by the revision petitioner, subject to the appeal being preferred within a period of four weeks from the date of receipt of copy of this order.

12. The Registry is directed to return the original plaint to the revision petitioner, after getting appropriate acknowledgment, to enable him to prefer an appeal, against the order of rejection of the plaint by the



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trial Court. There shall be no order as to costs.

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Internet : Yes

Index: Yes/No

Neutral Citation: Yes/No

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P.B.BALAJI,J.

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To

1. The Principal District Munsif,
Tuticorin.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

Pre-delivery order in
C.R.P.(MD)No.642 of 2019

01.12.2023