



C.R.P(MD)No.1723 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **14.08.2023**

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

C.R.P(MD)No.1723 of 2018

and

C.M.P(MD)No.7395 of 2018

1.M/s.Maruthi Build Tech,
Represented by its Managing Partner,
N.Baskar and S.Karthi,
No.157-E, Mahathma Gandhi Road,
Barathi Nagar,
Karur-2.

2.N.Baskar

3.S.Karthi

4.B.Kanimozhi

5.Tamilselvi

...Petitioners/Petitioners/
Defendants

Vs.

S.Latha

...Respondent/Respondent/
Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 21.06.2018 made in I.A.No.1411 of 2016 in O.S.No.414 of 2016 on the file of the learned Additional District Munsif, Karur.



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For Petitioners : Mr.N.Shanmugaselvam

For Respondent : Mr.K.Suresh

ORDER

The civil revision petition has been filed against the order passed by the learned Additional District Munsif, Karur I.A.No.1411 of 2016 in O.S.No.414 of 2016, dated 21.06.2018.

2. The petitioners herein are the petitioners/defendants and the respondent herein is the respondent/plaintiff before the Court below.

3. The learned counsel for the petitioners herein submits that as per Section 44 of the Indian Partnership Act, unless there is a breach of agreement relating to the management of the affairs of the firm, or the conduct of its business or otherwise, there cannot be any cause of action for the partner to file a suit for dissolution of firm. Therefore, the learned counsel for the petitioners would vehemently submits that the suit instituted by the respondent lacks cause of action. Hence, contended that the same is liable to be rejected under Order 7 Rule 11 of C.P.C.



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4. Per contra, the learned counsel for the respondent would submit that, in the plaint she has narrated about the breach in Paragraph No.6 of the plaint and would also invite the attention of this Court in respect of cause of action in Paragraph No.12 of the plaint. Therefore, he would submit that the very application for rejection of plaint is not maintainable.

5. After considering either side submission, the Court below dismissed the application and has found that when there was a mutual faith and confidence between the partners fails, then the partners are entitled to institute a suit and thereby, the Court below has founded the cause of action.

6. I have given my anxious consideration to either side submissions.

7. It is a well settled principle of law that whenever an application is filed under Order 7 Rule 11 of C.P.C., the Court below should only see the plaint averments and decide the application without any external aid.

Here in this case, learned counsel for the petitioners urged this Court by



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relying upon the document, dated 01.01.2014, which is marked as Exhibit P1 in the instant application. Whereas, such document is not part of the plaint. Furthermore, it is pertinent to mention here that, the plaint averments in Paragraph No.12, has been specifically mentioned about the certain cause of action. We cannot assume or presume the absence of cause of action in the plaint, contrary to the plaint pleading. Here, may be the cause of action referred to in the plaint is not to the expectations of the petitioners herein. But, whenever, we are considering the application, within the frame work under Order 7 Rule 11 of C.P.C., it is the duty of the Court to consider only the plaint averment and not beyond that.

8. Therefore, while reading the plaint, this Court could able to find certain cause of action to institute the suit. Therefore, the ground urged by the petitioners that there is no cause of action could not be accepted.

9. The learned counsel for the petitioners also relied upon other ground in his petition, in respect of other factual aspects. But those factual aspects did not come within the frame work under Order 7 Rule 11 of C.P.C. Therefore, this Court is of the view that the order passed by the Court below is well within the contours of Order 7 Rule 11 of C.P.C., and does not require any interference.



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10. In the result, this Civil Revision Petition stands **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

14.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The learned Additional District Munsif,
Karur.
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN,J.

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