



C.R.P(MD)No.2472 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.07.2023

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THE HON'BLE MR.JUSTICE C.KUMARAPPAN

C.R.P(MD)No.2472 of 2017
and
C.M.P(MD)No.11705 of 2017

Karuppiah (Died)

Subramanian (Died)

1.P.Saravanan

2.Michael Raj

...Petitioners/Petitioners/
Defendants

Vs.

Subramanian

...Respondent/Respondent/
Plaintiff

*(Cause title accepted vide Court order
dated 30.11.2017 made in CMP(MD)No.
10823 of 2017)*

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order and decretal order dated 04.01.2017 made in I.A.No.1023 of 2013 in O.S.No.432 of 2013 on the file of the Sub Court, Pudukkottai and consequently reject the plaint under Order 7 Rule 11 (A) of C.P.C.



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C.R.P(MD)No.2472 of 2017

For Petitioner : Mr.Ramsundar Vijay Raj
M/s.Veera Associates

For Respondent : Mr.D.Ramesh Kumar

ORDER

This civil revision petition has been filed against the order passed by the Sub Court, Pudukkottai in I.A.No.1023 of 2013 in O.S.No.432 of 2013, dated 04.01.2017.

2. The petitioners/defendants have filed an application under Order 7 Rule 11 of C.P.C., to reject the plaint in O.S.No.432 of 2013. According to the petitioners/defendants, the respondent/plaintiff has already executed a sale deed in favour of the fourth defendant, Michael Raj, who is the second petitioner herein. Based on such sale deed, he has already filed a suit in O.S.No.303 of 2010, wherein, the Trial Court has disbelieved the title of the fourth defendant derived through the respondent/plaintiff herein, the suit was dismissed. Therefore, the subsequent suit in O.S.No.432 of 2013 is hit by the principles of Order 2 Rule 2 of C.P.C. Hence, filed an application that the subsequent suit is barred under law.



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3. However, the respondent/plaintiff would submit that in the earlier suit that the respondent herein was not a party to the earlier suit in O.S.No.303 of 2010. Therefore, Order 7 Rule 11 is not applicable to the facts and circumstances of the case.

4. The learned Trial Judge after gone into various aspects has ultimately rejected the application on the ground that the respondent herein, namely, Subramanian, S/o.Chidambaram was not a party to the earlier suit in O.S.No.303 of 2010. However, another Subramanian, S/o.Perumal alone was party in that suit.

4. Aggrieved with the order, the petitioners/defendants have come up with this civil revision petition.

5. The learned counsel for the petitioner would emphasis before this Court that, when the plaintiff in O.S.No.432 of 2013 has already sold the property in favour of the Michael Raj, and when the Michael Raj has already filed a suit in respect of the suit property in O.S.No.303 of 2010, wherein, the title derived from his predecessor of title Subramanian, S/o,Chidambaram was disbelieved, the filing of subsequent suit by him is not maintainable.



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6. The contention of the petitioner was objected by the respondent on the ground that the plaintiff in O.S.No.432 of 2013 was not a party to the earlier suit in O.S.No.303 of 2010.

7. I have given my anxious consideration on either side submissions. This Court has also perused the plaint.

8. It is a settled principle of law that whenever an application being filed Order 7 Rule 11, the Court should only go by the plaint pleadings and documents submitted along with the plaint. It is also settled principle of law that while perusing the plaint on the presumption that the plaint averment is true and in that event, if the stipulation stated in Order 7 Rule 11 of C.P.C come into existence, then only the Court will have jurisdiction to decide the application under Order 7 Rule 11 of C.P.C. Apparently, the plaintiff in O.S.No.432 of 2013 was not a party to the earlier suit and further more from reading of the plaint averment, this Court could not infer anything as to how the petitioner has stated that the plaint did not disclose cause of action. The petitioner stated that suit property in the earlier suit and the present suit are one and the same. Such ground could not be found through the reading of the instant plaint. The same could be done only by comparing the plaint and decree of the



C.R.P(MD)No.2472 of 2017

suit in O.S.No.303 of 2010. Such exercise is not permissible under the frame work under Order 7 Rule 11 of C.P.C. Therefore, this Court is not inclined to interfere with the well considered order passed by the learned Trial Judge.

9. In the result, this Civil Revision Petition stands dismissed. No costs. Considering the fact that the suit is of the year 2013, the Trial Court is directed to dispose of the suit in O.S.No.432 of 2013 as expeditiously as possible preferably within a period of 6 months from the date of receipt of the copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

21.07.2023

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

- 1.The Sub Court,
Pudukkottai.
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P(MD)No.2472 of 2017

C.KUMARAPPAN,J.

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C.R.P(MD)No.2472 of 2017

21.07.2023