



CRP(MD).No.2261 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.09.2023

CORAM

THE HON'BLE MR.JUSTICE **C.KUMARAPPAN**

CRP(PD)(MD).No. 2261 of 2019 and
CMP(MD)No.11702 of 2019

K.Kamalakannan

Petitioner

Vs.

1. Bharathihasan
2. The Sub Inspector of Police,
District Crime Branch Police,
Karur.
3. The Inspector of Police,
District Crime Branch Police,
Karur.
4. The Deputy Superintendent of Police,
District Crime Branch Police,
Karur.
5. The Superintendent of Police,
Karur District.

Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India to call for the records of suit in O.S.No.452 of 2019 on the file of the learned District Munsif Court, Karur and strike of the the plaint.

For Petitioner : Mr.I. Velpradeep

For respondent : Mr.V.Nagarajan



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ORDER

This Civil Revision Petition has been filed to call for the records relating to the suit in O.S.No.452 of 2019 on the file of the learned District Munsif Court, Karur and strike off the plaint.

2. The petitioner herein is the first defendant in the suit. It appears that the 1st respondent herein is the plaintiff in the suit.

3. For the sake of convenience, the parties will be referred as per the litigative status before the trial Court.

4. The learned counsel appearing for the revision petitioner / 1st defendant would vehemently submits that the suit in O.S.No.398 of 2019, pending on the file of the District Munsif Court, Karur is the *res judicata* in O.S.No.452 of 2019. He would further submit that the cause of action for the suit in O.S.No.398 of 2019 and 452 of 2019 are one and the same. Therefore, filing of the suit in O.S.No.452 of 2019 is hit by the principles of *res judicata* and the same would amount to re-litigation and abuse of process of law.



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5. However, the learned counsel appearing for the first respondent / plaintiff would submit that the cause of action in the said suit in O.S.No.398 of 2019 is different. He would further submit that the suit in O.S.No.398 of 2019 is only in respect of first defendant viz., Kamalakannan, whereas the other suit in O.S.No.452 of 2019 was against the Kamalakannan and the police officials, and the cause of action for the second suit is also different from the earlier suit in O.S.No.398 of 2019 and therefore, prayed for dismissal of this Civil Revision Petition.

6. I have given my anxious consideration of the submissions of the learned counsel appearing on either side and perused the materials available on record.

7. The first and foremost submission made by the learned counsel appearing for the revision petitioner is in respect of the *res judicata*. However, the learned counsel for the first respondent has produced the downloaded copy of the status of cases for O.S.No.398 of 2019. Wherein both the parties are altogether different. Though the very pleadings in the Civil Revision Petition that there was a earlier suit in O.S.No.398 of 2019, apparently such statement is in-correct. When the



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petitioner approached the constitutional Court under Article 227 of the Constitution of India, the petitioner should have verified the correct case number.

8. However, the suit which is pending is O.S.No.390 of 2019. This Court is of the view that between the two suits the parties are different and cause of action also different. On harmonious reading of the plaint in O.S.No.452 of 2019 the cause of action to the suit arise only after filing of the suit in O.S.No.390 of 2019. Therefore, the contention of the petitioner that the suit in O.S.No.452 of 2019 is re-litigation in respect of correct suit in O.S.No.390 of 2019 cannot be countenanced.

9. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

11.09.2023

Index : Yes / No
Internet : Yes / No
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To

The District Munsif Court, Karur



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C.KUMARAPPAN, J.,

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