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C.R.P.(MD)No.602 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P.(MD)No.602 of 2023

and

C.M.P.(MD)No.2780 of 2023

S.Muthuravi

.. Petitioner

Versus

1.V.Yogeswari

2.V.Revathi

3.T.Vasu @ Vasuraj

4.V.Kannan @ Poobalakannan

.. Respondents

Prayer :- Petition filed under Article 227 of the Constitution of India, to strike off the plaint in O.S.No.218 of 2020, on the file of the Special Court for Trial Cases registered under SC/ST [POA] Act, Dindigul, and allow this Civil Revision Petition.

For Petitioner : Mr.S.Sukumar

ORDER

This Civil Revision Petition has been filed to strike off the plaint in O.S.No. 218 of 2020, on the file of the Special Court for Trial Cases registered under SC/ST [POA] Act, Dindigul, and allow this Civil Revision Petition.



2. It is the specific case of the petitioner that the above said suit has been filed by the respondents 1 and 2 as plaintiffs, even though earlier suit filed against their father T.Vasu @ Vasuraj in O.S.No.66 of 2009 was decreed as *ex parte* before the Additional Sub-Court, Dindigul and that the further appeal in A.S.No.22 of 2011 was also dismissed by the Principal District Court, Dindigul, by judgment and decree, dated 24.08.2012. It is submitted that fresh proceedings by the respondents 1 and 2, who represented the interest of their father, the third respondent herein, has been considered by the appellate Court while passing the judgment and decree in A.S.No. 22 of 2011, vide judgment and decree, dated 24.08.2012. It is, therefore, submitted that the present suit in O.S.No.218 of 2020 before the Special Court for Trial of Cases registered under SC/ST [POA] Act, Dindigul, is nothing but abuse of Court proceedings.

3. The learned counsel for the petitioner would place reliance on the following decisions:-

(i) **Mani alias Nagamani and others vs. P.Ramakrishnan** reported in **2018 (4) MLJ 182**

(ii) **N.Babu vs. S.Shanmugam** and others reported in **2013 (1) MLJ 94.**

4. I have considered the arguments advanced by the learned counsel for the petitioner.



5. Jurisdiction under Article 227 of the Constitution of India cannot be readily invoked to by-pass the statutory remedy prescribed under the C.P.C. Specifically, if it is the case of the petitioner that the suit is barred by law on account of *res judicata* or on account of any other circumstances enumerated in Order VII Rule 11 of C.P.C., it is open for the petitioner to file a petition under Order VII Rule 11 of C.P.C. The suit, which has been instituted, admitted and numbered, cannot be scuttled under Article 227 of the Constitution of India.

6. That apart, as per the statement of the learned counsel for the petitioner, the petitioner has also sold the rights in the property to third party, namely, Karuppaiah. Therefore, on that count also, there is no urgency to scuttle the proceedings. It is open for the petitioner to inform the buyer, so that, the buyer can get himself impleaded in the proceedings.

7. There is no merit in the Civil Revision Petition filed to strike off O.S.No. 218 of 2020, on the file of the Special Court for Trial Cases registered under SC/ST [POA] Act, Dindigul. Under these circumstances, the present Civil Revision Petition is liable to be dismissed.



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8. In the light of the above discussion, the present Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. However, liberty is given to the petitioner to raise all the grounds that are available, including the right to file an application under Order VII Rule 11 of C.P.C. before the Court below.

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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06.03.2023

To

The Judge,
Special Court for Trial Cases under SC/ST [POA] Act,
Dindigul.



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C.SARAVANAN, J.

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