



C.R.P.(MD)No.3058 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 27.11.2023

Delivered on : 22.12.2023

CORAM:

**THE HON'BLE MR.JUSTICE K.MURALI SHANKAR**

C.R.P.(MD)No.3058 of 2023

1.Raja

2.Arjunan

: Petitioners/Plaintiffs

Vs.

1.Brindha

2.Suresh

: Respondents/ Defendants

**Prayer** : This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 29.09.2023 rejecting the plaint in O.S.SR No.1120 of 2023 on the file of the District Munsif Cum Judicial Magistrate, Krishnarayapuram.

For Petitioners : Mr.K.Govindarajan, Senior Counsel,  
for Mr.S.Ponsenthil Kumar

**ORDER**

The Civil Revision Petition is directed against the fair and decreetal order, dated 29.09.2023, rejecting the pliant in O.S.SR No.1120 of 2023



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on the file of the District Munsif Cum Judicial Magistrate,  
Krishnarayapuram.

2. The revision petitioners as plaintiffs have filed the above suit against the respondents/defendants claiming permanent injunction restraining the defendants and their men from interfering with the first plaintiff's possession and enjoyment of the 'A' schedule property either by demolishing the house in 'A' schedule property or in any other manner whatsoever and for permanent injunction restraining the defendants and their men from interfering with the second plaintiff's possession and enjoyment of the 'B' schedule property either by demolishing the house in 'B' schedule property or in any other manner whatsoever. The learned District Munsif, upon considering the plaint and the documents along with plaint and on hearing the arguments of plaintiffs side, has passed the impugned order, dated 29.09.2023, rejecting the plaint. Against the rejection order, the plaintiffs have preferred the present revision, invoking under Article 227 of the Constitution of India.

3. I have heard Mr.K.Govindarajan, learned Senior Counsel and also perused the records.



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4. The learned counsel for the revision petitioners would submit that the trial Court has committed an error by rejecting the plaint at the threshold disregarding the ratio laid down by this Court in ***Selvaraj and others Vs. Koodankulam Nuclear Power Plant India Limited and Others*** reported in **2021 4 CTC 539**; that the trial Court ought not to have adjudicated the merits of the case while processing the plaint for registration; that the trial Court ought not to have played the role of the defendant and raised objections which the the defendant might raise after entering into the appearance; that the Court cannot test the correctness of the existence or otherwise of a cause of action at the numbering stage and reject a plaint under Order VII Rule 11(a) of C.P.C., even prior to its numbering; that the pliant has clearly spelled out the cause of action, but the trial Court without any basis has termed the same as illusory or invented by clever drafting; that the trial Court has committed grave error in conducting mini trial, demanding the petitioner to prove the averments made in the plaint, that the trial Court has exceeded its jurisdiction by making sweeping remarks and that the petitioner has approached the Court suppressing the real facts and with unclean hands.



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5. The learned trial Judge, referring the plaint averments and the documents produced by the plaintiffs along with plaint and taking note of the decision of the Hon'ble Supreme Court, by holding that the plaint does not disclose cause of action, has rejected the plaint.

6. The main contention of the learned counsel for the revision petitioner is that the trial Court has failed to follow the judgment of this Court in *Selvaraj's* case above referred; that the trial Court has exceeded its jurisdiction by conducting a mini trial, even before the registration of the suit and that the trial Court has no power or jurisdiction to reject the plaint that there was no cause of action and that too at the numbering stage.

7. At the out set, it is pertinent to note that a civil Court can reject the plaint at any stage of the suit, even before registration of the plaint. At this juncture, it is necessary to refer the judgment of the Hon'ble Supreme Court in *Madiraju Venkata Ramana Raju vs Peddireddigari Ramachandra* reported in *2018 14 SCC 1*, wherein the Hon'ble Apex Court has specifically held that if the court on presentation of the plaint is



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of the view that the same does not fulfill the statutory and institutional requirements, the plaint can be rejected either after admitting the plaint or even before admitting the same and that therefore, the trial Court has power to recall the plaint even at the registration stage.

8. The Hon'ble Supreme Court in the case of ***Saleem Boy Vs. Stage of Maharashtra and others*** reported in (2003) 1 SCC 557, has specifically observed that a perusal of the Order VII Rule 11 C.P.C., makes it clear that the trial Court can exercise the power under Order VII Rule C.P.C at any stage of the suit-before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial.

9. Considering the settled legal position above referred, the contention of the learned counsel for the revision petitioners that the trial Court has exceeded its jurisdiction in rejecting the plaint even before registration of the case, is devoid of substance and is liable for rejection.

10. As already pointed out, taking note of the plaint averments, the trial Court has passed a detailed order rejecting the plaint. It is pertinent to note that the order rejecting the plaint can only be considered as a decree



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and as such, appeal alone would lie. Hence, the remedy available to the revision petitioners is to prefer regular appeal as contemplated under Order 41 C.P.C. At this juncture, it is necessary to refer the judgment of the Hon'ble Supreme Court in ***Mohamed Ali Vs. V.Jaya and others*** in Civil Appeal No.4114 of 2022, dated 11.07.2022 and the relevant passages are extracted hereunder :

*“6.2 Even otherwise and as observed hereinabove, against the exparte judgment and decree, the remedy by way of an appeal before the First Appellate Court was available. Therefore, the High Court ought not to have entertained the revision application under Section 115 of CPC and under [Article 227](#) of the Constitution of India. The High Court ought not to have entertained such a revision application challenging the ex-parte judgment and decree.*

*Once there was a statutory alternative remedy by way of an appeal available to the defendants, the High Court ought not to have entertained a writ petition or revision application under [Article 227](#) of the Constitution of India.*

*7. At this stage, the decision of this Court in the case of Virudhunagar Hindu Nadargal Dharma Paribalana Sabai and*



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*Ors. Vs. Tuticorin Educational Society and Ors.; (2019) 9 SCC 538, is required to be referred to. In the said decision, it is observed and held by this Court that wherever the proceedings are under the Code of Civil Procedure and the forum is the civil court, the availability of a remedy under CPC, will deter the High Court and therefore, the High Court shall not entertain the revision under [Article 227](#) of the Constitution of India especially in a case where a specific remedy of appeal is provided under the CPC itself. While holding so, it is observed and held in paragraphs 11 to 13 as under: “11. Secondly, the High Court ought to have seen that when a remedy of appeal under [Section 104\(1\)\(i\)](#) read with Order 43, Rule 1(r) of the Code of Civil Procedure, 1908, was directly available, Respondents 1 and 2 ought to have taken recourse to the same. It is true that the availability of a remedy of appeal may not always be a bar for the exercise of supervisory jurisdiction of the High Court. In *A. Venkatasubbiah Naidu v. S. Chellappan* [*A. Venkatasubbiah Naidu v. S. Chellappan*, (2000) 7 SCC 695] , this Court held that “though no hurdle can be put against the exercise of the constitutional powers of the High Court, it is a well-recognised principle which gained judicial recognition that the High Court should direct the party to avail himself of such remedies before he resorts to a constitutional remedy”.*

*12. But courts should always bear in mind a distinction between (i) cases where such alternative remedy is available*



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*before civil courts in terms of the provisions of Code of Civil Procedure, and (ii) cases where such alternative remedy is available under special enactments and/or statutory rules and the fora provided therein happen to be quasi judicial authorities and tribunals. In respect of cases falling under the first category, which may involve suits and other proceedings before civil courts, the availability of an appellate remedy in terms of the provisions of CPC, may have to be construed as a near total bar. Otherwise, there is a danger that someone may challenge in a revision under [Article 227](#), even a decree passed in a suit, on the same grounds on which Respondents 1 and 2 invoked the jurisdiction of the High Court. This is why, a 3 member Bench of this Court, while overruling the decision in [Surya Dev Rai v. Ram Chander Rai](#) [[Surya Dev Rai v. Ram Chander Rai](#), (2003) 6 SCC 675] , pointed out in [Radhey Shyam v. Chhabhi Nath](#) [[Radhey Shyam v. Chhabhi Nath](#), (2015) 5 SCC 423 : (2015) 3 SCC (Civ) 67] that “orders of civil court stand on different footing from the orders of authorities or tribunals or courts other than judicial/civil courts”.*

11. The above decision is squarely applicable to the case on hand. In the present case also, the competent Civil Court has passed the impugned order rejecting the plaint and as such, the plaintiff's remedy is to prefer a regular appeal under Order 41 of the Code of Civil Procedure. When a party is having a statutory alternative remedy by way of an appeal, he is



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not entitled to invoke the jurisdiction of this Court under Article 227 of the Indian Constitution.

12. The revision petitioners have nowhere whispered as to why and how, they have invoked the jurisdiction of this Court under Article 227 of the Constitution of India, when a statutory appeal remedy is very much available. Considering the above, this Court has no hesitation to hold that the revision petition is legally not maintainable and as such the same is liable to be dismissed.

13. Accordingly, the Civil Revision Petition is dismissed. No costs.

**22.12.2023**

NCC :yes/No  
Index :yes/No  
Internet:yes/No  
das

**To**

- 1.The District Munsif Cum Judicial Magistrate,  
Krishnarayapuram.
- 2.The Section Officer,  
VR Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**K.MURALI SHANKAR,J.**

DAS

Order made in  
C.R.P.(MD)No.3058 of 2023

Dated : 22.12.2023