



C.R.P.(MD)No.2969 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.11.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.2969 of 2023

and

C.M.P.(MD)No.15257 of 2023

1.Abitha

2.Sheik Mohamed

: Petitioners/Petitioners/
Defendants 1 and 2

Vs.

1.Sithi Nayima

2.Sarfudeen

3.Sakila

4.Nabila

: Respondents 1 to 4/ Respondents 1 to 4/
Plaintiffs

5.The Tahsildar,
Tahsildar Office,
Muthupettai Road, Pattukkottai,
Pattukkottai Taluk, Thanjavur District.

6.The District Collector,
District Collector Office,
Trichy Main Road, Thanjavur,
Thanjavur Taluk and District. : Respondents 5 & 6/Respondents 5 & 6/
Defendants 3 & 4



C.R.P.(MD)No.2969 of 2023

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 07.07.2023 made in I.A.No.653 of 2021 in O.S.No.63 of 2017 on the file of the District Munsif Court, Pattukkottai.

For Petitioners : Mr.Ajmal khan, Senior Counsel,
for M/s.Ajmal Associates.

For Respondents : Mr.J.John Rajadurai, for R5 and R6.

ORDER

The Civil Revision Petition is directed against the order passed in in I.A.No.653 of 2021 in O.S.No.63 of 2017, dated 07.07.2023 on the file of the District Munsif Court, Pattukkottai, dismissing the petition filed under Order VII Rule 11 C.P.C.

2. The respondents 1 to 4 /plaintiffs have filed the suit to declare that the judgment and decree passed in O.S.No.210 of 2015, dated 03.12.2015 is not valid and is *nonest*.

3. The learned senior counsel for the petitioners would submit that the defendants 1 and 2 have filed the earlier suit in O.S.No.210 of 2015 to declare that they are the legal heirs of the deceased Farooq and the learned



C.R.P.(MD)No.2969 of 2023

District Munsif, after trial, has passed the judgment and decree declaring that the plaintiffs therein are the legal heirs of the deceased Farooq.

4. The learned senior counsel would further submit that they are only the legal heirs of the deceased Farooq as per the Mohammedan Law and that the present plaintiffs without having any right by claiming imaginary rights, have filed the above suit, challenging the judgment and decree passed in the earlier suit. He would further submit that since the plaintiffs have no cause of action, the petitioners were constrained to move for rejection of plaint, but the learned District Munsif, Pattukottai, without considering the above aspects, dismissed the petition.

5. As rightly observed by the learned trial Judge, who are legal heirs of the deceased Farooq, whether the plaintiffs are the legal heirs, are the matters that cannot be gone into at this stage and are the matter for trial and as such the above aspects cannot be considered as reason or ground for rejection of plaint. Considering the above, the impugned order dismissing the petition cannot be found fault with. Hence, this Court concludes that the Civil Revision is devoid of merits and the same is liable to be dismissed.



C.R.P.(MD)No.2969 of 2023

WEB COPY

6. In the result, the Civil Revision Petition is dismissed. No costs.

Consequently, connected Miscellaneous Petition is closed.

10.11.2023

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

To

- 1.The District Munsif Court, Pattukkottai.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P.(MD)No.2969 of 2023

K.MURALI SHANKAR,J.

das

Order made in
C.R.P.(MD)No.2969 of 2023
and
C.M.P.(MD)No.15257 of 2023

Dated : 10.11.2023