



C.R.P. No. 109 of 2022

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P. No. 109 of 2022

Alvina Nagothi

..Petitioner

Vs.

1. Marlene Naomi Geraldine Doggett
2. Sheldon Leonarrd Michael Doggett
3. Winfred Doggett

..Respondents

Prayer: Civil Revision Petition under Article 227 of the Constitution of India to set aside the docket order dated 31.08.2021 passed in Unnumbered I.A. of 2021 in O.S. No. 8911 of 2019 on the file of VI Additional City Civil Court, Chennai.



WEB COPY



C.R.P. No. 109 of 2022

For Petitioner :: Ms.Anukriti Anand for
 Mr.Govind Chandrasekhar
For Respondents :: Mr.R.A. Vimal Raj for
 Ms.T.S. Kanmani

ORDER

The petitioner before this Court is the defendant in the suit. She challenges the docket order dated 31.08.2021 passed by the learned VII Additional Judge, City Civil Court, Chennai in unnumbered I.A.of 2021.

2. The respondents before me had filed the suit for recovery of a sum of Rs.69,30,372/- together with interest @ 18% per annum. On being served with the summons in the suit, the defendant entered appearance through a counsel. The defendant filed an application for rejection of plaint on 31.08.2021. The learned VII Additional Judge, City Civil Court, Chennai, has returned the said petition stating as follows:



C.R.P. No. 109 of 2022

WEB COPY

"The deft. Is set ex parte today. Hence, this petition is returned."

3. An application under Order VII Rule 11 of Code of Civil Procedure is a plea in demurrer. It can be filed at any stage of the proceedings. It does not matter whether the written statement has been filed by the defendant or he/she has been set ex parte. At the stage of rejection of plaint, all the Court does is look into the averments made in the plaint and come to a conclusion whether the suit should remain on its file or whether it should be rejected. The defence taken in the written statement or the documents filed by the defendant are absolutely irrelevant for the purpose of dealing with an application under Order VII Rule 11 of Code of Civil Procedure. Even if the defendant is set ex parte, still, he/she can bring to the notice of the Court that the suit is not liable to be on the file of the Court. As pointed out above, the defendant only brings to the notice of the Court that the suit is not maintainable or comes within the four corners of Order VII Rule 11 of Code of Civil Procedure. The order of the learned VII



C.R.P. No. 109 of 2022

Additional Judge, City Civil Court, Chennai stating that since the defendant

WEB COPY

has been set ex parte, she is not entitled to maintain the application under Order VII Rule 11 of Code of Civil Procedure is not correct and it requires to be interfered with and accordingly, it is interfered with.

4. Therefore, the order dated 31.08.2021, which is under challenge in this Civil Revision Petition is set aside and the Civil Revision Petition stands allowed. The Registry shall return the original of the petition filed before this Court in the aforesaid unnumbered I.A. to the learned counsel for the petitioner, who shall re-present the same. Learned VII Additional Judge, City Civil Court, Chennai is requested to number the application and issue notice in the same in terms of Rule 31 of Civil Rules of Practice and as per circulars and standing orders of this Court. After receiving the counter from the plaintiffs, if any, the learned VII Additional



WEB COPY



C.R.P. No. 109 of 2022

Judge, City Civil Court, Chennai, shall proceed and pass orders in the said application.

5. The Civil Revision Petition stands allowed with the above directions. No costs.

30.04.2024

*(**Note to Office:** Registry is directed to return the original of the aforesaid petition to the learned counsel for the petitioner.)*

To
The City Civil Court, Chennai.

V. LAKSHMINARAYANAN, J.



WEB COPY



C.R.P. No. 109 of 2022

nv

C.R.P. No. 109 of 2022

30.04.2024