



CRP.No.721 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

C.R.P.No.721 of 2022

Rangaiah Naidu (Died)
Bhoopalan

... Petitioner

Vs.

1.Padmanabhan
2.Damodaran

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the decree and judgment dated 14.09.2015 passed in O.S.No.84 of 2008 by the District Munsif Court, Pallipet.

For Petitioner : Mr.C.Chokkalingam

For Respondents : Mr.L.Dhamodharan for R1
R2- No appearance



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ORDER

This Civil Revision Petition has been filed praying to set aside the judgment dated 14.09.2015 passed in O.S.No.84 of 2008, whereby, the learned Judge, rejected the plaint under Order VII Rule 11(b) of CPC.

2. The learned counsel for the revision petitioner/plaintiff would submit that the suit is for partition and separate possession. The learned Judge, trial court, directed the plaintiff to pay deficit court fee and posted the matter on 14.09.2015. Due to court boycott, the plaintiff was unable to pay the deficit court fee. The learned Judge, rejected the plaint by pointing out that deficit court fee not properly calculated and paid. The learned counsel for the revision petitioner/plaintiff prayed this court to set aside the rejection of plaint by taking note of the nature of suit and the other circumstances for not paying the deficit court fee.

3. The learned counsel for the 1st respondent/1st defendant would



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submit that when an alternative statutory mode of redressal has been provided, the revision petitioner/plaintiff would have exhausted the alternative remedy instead of filing the Civil Revision Petition. He would further submit that the Civil Revision Petition is not maintainable,

4. Heard both sides and perused the impugned judgment passed in O.S.No.84 of 2008.

5. The learned Judge, trial court, while rejecting the plaint under Order VII Rule 11(b) of CPC, pointed out that 2nd plaintiff is present; Deficit court fee not properly calculated and paid on relief (b) of Plaint; sufficient time granted; plaint is rejected under Order VII Rule 11(b) of CPC. Under the provision, the deficit court fee needs to be corrected within the time which is prescribed by the Court. Since the plaintiff did not correct the defect, plaint was rejected.

6. The settled proposition of law is that if a court of law passes an



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order for rejection of plaint, under Order 7 Rule 11 of CPC, it has the force of decree and therefore, regular Appeal lies under CPC and in fact, no revision would lie. Therefore, the Civil Revision Petition filed by the plaintiff/revision petitioner is not maintainable. When an alternative statutory mode of redressal has been provided, the petitioner should have exhausted the alternative remedy instead of filing the Civil Revision Petition, as against the judgment passed under Order 7 Rule 11 of CPC.

7. In the result, the Civil Revision Petition is dismissed as not maintainable. No costs.

21.02.2024

Index :Yes/No
Internet:Yes/No
nvsri

To

1. The District Munsif, Pallipet, Thiruvallur District.
- 2.The Record Keeper, VR.Section, High Court, Madras



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J. NISHA BANU, J.

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