



WEB COPY



C.R.P.(NPD).No.3046 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(NPD).No.3046 of 2021

1.G.Kamalanathan
2.K.Kumar

... Petitioners

VS

M.Elamparuthy

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside order dated 18.02.2021 made in unnumbered Suit SR.No.4023, dated 21.01.2021 on the file of the Principal District Judge, Thiruvallur.

For Petitioners : Mr.N.R.Anantha Rama Krishnan

For Respondent : Not ready in notice



C.R.P.(NPD).No.3046 of 2021

ORDER

WEB COPY

The Civil Revision Petition is filed challenging the order passed by the trial Court rejecting the plaint presented by the petitioners even without numbering.

2. I had occasion to consider the question, whether an order rejecting unnumbered plaint can be treated as deemed decree for the purpose of appeal in ***T.Kumar Vs.Pavai Varam Educational Trust reported in AIR 2023 Mad 42 = Manu/TN/9817/2022***. The said question was answered in affirmative in following words:

7. A close scrutiny of the definition of the expression 'decree' would make it clear that the draft man himself had a doubt that order of rejection of plaint may not come within the wordly definition of the expression 'decree'. Since it will not come within the definition as found in first limb of Section 2(2) of CPC, he had chosen to bring it under the inclusive definition by including it in the second limb of definition. Therefore, Section 2(2) of Code of Civil Procedure does not make any distinction between



WEB COPY



C.R.P.(NPD).No.3046 of 2021

the rejection of plaint before numbering and after numbering. In such case, an order of rejection of plaint even before numbering of the same, shall be treated as a deemed decree and consequently the revision is not maintainable, in view of availability of regular appeal remedy under Section 96 of CPC.

8. It is also useful to refer to the judgement of this Court reported in MANU/TN/2570/2016 (A.Ramanathan vs. Tamarai Mills Ltd) wherein this Court after referring to the unreported judgement of the Division Bench of this Court made in C.R.P.(PD). No. 1211 of 2013 dated 28.08.2014 observed as follows:-

"12. The Division Bench of this Court, in the unreported Judgment dated 28.08.2014 referred supra, has clearly held that if a Court of Law passes an order for rejection of plaint, under Order 7 Rule 11 of Civil Procedure Code, it has the force of "Decree" and therefore, regular "Appeal" lies under Civil Procedure Code and in fact, no "Revision" would lie."

9. In view of the discussions made above, this Court has no hesitation in holding that this Civil Revision Petition challenging the order passed by the Court below rejecting the plaint in unnumbered stage is not maintainable.



C.R.P.(NPD).No.3046 of 2021

WEB COPY

3. In view of the law laid down in the above mentioned case law, against the order impugned in this revision an appeal shall lie before the regular Appellate Court.

4. Accordingly, the Civil Revision Petition stands dismissed with liberty to the petitioner to file an appeal before the Appellate Court. No costs.

04.03.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
ub

Note to Registry:

The Registry is directed to return the original impugned order to the learned counsel for the petitioner.



WEB COPY



C.R.P.(NPD).No.3046 of 2021

To

The Principal District Judge,
Thiruvallur.



WEB COPY



C.R.P.(NPD).No.3046 of 2021

S.SOUNTHAR, J.

ub

C.R.P.(NPD).No.3046 of 2021

04.03.2024