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C.R.P.(NPD).No.3003 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

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- 1.Shivamma
- 2.Kanthamma
- 3.Kottamma @ Kanthamma
- 4.Anjamma
- 5.Savithiriamma
- 6.Krishnappa
- 7.Manjunath
- 8.Ammaiah @ Saraswathiamma
- 9.Appaiya

... Petitioners

VS

- 1.Narayanappa
- 2.Anusuyamma
- 3.Saraswadamma



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4.B.N.Prakash

5.B.N.Abbaiyah

6.B.N.Periyasamy

7.B.N.Srinivas

8.Papamma @ Lakshmamma

9.Narmatha

10.Sujatha

11.Suresh Babu

12.Susilamma

13.Babu

14.Srinath

15.Mala

16.Nanjamma

17.Venkatesh

18.Gopuliappa

19.Subramani

20.Sivappa

21.Nagarathina

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22.Subramani

23.Chakkaravarthi

24.Thulasidoss

25.Thiruvengadam

26.K.Raju

27.Ravi

28.Sujatha

29.Anandeswariamamma

30.Senkuttuvan

31.Lakshmi

32.Manikandan

33.Harikrishnan

34.Mamatha

35.Andan V.Rayan

36.Arokia Sagayarani

37.Jalaja

38.Senthilvel

39.Senbagavalli

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40.Mary Earnest

41.Balakarthikeyan

42.M.Rajendran

43.G.Sarojamma

44.Karthikeyan

45.Sakratees

46.Gomathi

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and final order dated 25.02.2016 made in O.S.No. of 2016 on the file of the Sub Court, Hosur.

For Petitioners : Ms.D.Sathya
 for M/s.Zeenath Begum

For R1 to R7
and R9 and R10 : Mr.B.Bharathkumar
 for M/s.V.Nicholas

For R32 : Mr.G.Arun

For R38 : Mr.S.Manohar

For R8, R18, R22,
R23, R24, R33,
R25, R28, R37,
R42, R26, R30,
R31, R34, R39
and R41 : Not ready in notice



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For R11, R29, R35
R36, R40, R43,
R44, R45, R46,
R12 to R17, R19,
R20 and R21 : No Appearance

ORDER

The Civil Revision Petition is filed against the order rejecting the plaint even without numbering.

2. The learned counsel appearing for the petitioners submitted that since the plaint is rejected even without numbering, it cannot be treated as a deemed decree and the civil revision petition is maintainable.

3. Whether the order rejecting an unnumbered plaint would amount to deemed decree was considered by Me in ***T.Kumar Vs.Pavai Varam Educational Trust reported in AIR 2023 Mad 42 = Manu/TN/9817/2022,*** wherein the relevant observation reads as follows:-

“6. The contention of the learned counsel for the petitioner cannot be accepted in the light of the clear wordings of Section 2(2) of Code of Civil Procedure. The definition of the



expression 'decree' contains three limbs:

- (i) The first limb of the definition defines the expression decree by words;*
- (ii) The second limb of definition is an inclusive definition, it brings an order rejecting the plaint and an order determining any one of the questions under Section 144 of CPC within the fold of definition of decree.*
- (iii) The third limb of definition is an exclusive definition, it excludes any adjudication from which an appeal shall lie as an appeal from an order and any order dismissing the suit for default from the purview of definition of expression 'decree'.*

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,



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Section 2(2) of Code of Civil Procedure does not make any distinction between 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



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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.”

4. 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.

5. Accordingly, the Civil Revision Petition is dismissed as not maintainable with liberty to the petitioners to file regular appeal challenging the impugned order rejecting the plaint. It is also made clear the petitioners are entitled to exclude the time taken for prosecuting the civil revision petition before this Court (i.e., from 12.09.2016 to date of receipt of copy of the order). No costs.

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Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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Note: The Registry is directed to return the copy of the original impugned order dated 25.02.2016 made in O.S.No. of 2016 to the learned counsel for the



petitioner.

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To
The Sub Court, Hosur.



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S.SOUNTHAR, J.

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