



C.R.P.No.2338 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2024

CORAM:

THE HONOURABLE Mr.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.2338 of 2023
and CMP.No.14251 of 2023

1.Agilandeswari
2.V.C.Rameswaramurugan

... Petitioners

Vs

1.J.Dinakaran
M/s.J.D.Automobiles and Allied Service
Private Limited
90, Madhavaram High Road
Perambur, Chennai - 600 011.

2.The Deputy Commissioner of Police
Pulianthope Zone
Chennai - 600 012.

3.The Assistant Commissioner of Police
Peravalur Zone
Chennai.

4.The Inspector of Police
K-1, Sembium Police Station
Perambur, Sembium
Chennai - 600 011.

... Respondents



C.R.P.No.2338 of 2023

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India praying to strike off the suit in O.S.No.6094 of 2018 on the file of XX Assistant City Civil Court, Chennai, by allowing this civil revision petition by exercising the power conferred under Article 227 of the Constitution of India.

For Petitioners : Mr.N.Manokaran

For Respondents : Mr.R.M. Pradeepan
for Mr.R.C.Paul Kanagaraj for R1

ORDER

This revision is filed by the defendants 1 and 2 to strike off the suit in O.S.No.6094 of 2018 pending on the file of XX Assistant City Civil Court, Chennai.

2. The first respondent herein as plaintiff had laid the suit in O.S.No.6094 of 2018 before the City Civil Court, Chennai, seeking permanent injunction against the revision petitioners (defendants 1 & 2) from interfering with his peaceful possession and also not to harass him to pay Rs.75.0 lakhs, which the plaintiff had obtained from the first defendant on executing a pronote. It is the case of the revision petitioners/defendants that



the plaintiff had repaid the said amount and settled the dispute out of Court.

Since no cause of action survives in keeping the suit pending, the revision petitioners/defendants are before this Court seeking leave to strike off the suit.

3. Heard Mr.N.Manoharan, learned counsel for the revision petitioners and Mr.R.M.Pradeepan for the first respondent.

4. Mr.N.Manoharan would contend that the suit has become infructuous and by invoking the principle laid down in ***Shipping Corporation of India Ltd Vs Machado Brothers and others***, (2004) 11 SCC 168, this Court should dismiss the suit.

5. The Hon'ble Justice Mr.N.Santosh Hedge as His Lordship then was, has held that it is always open to the defendants to take out an application under Section 151 of Civil Procedure Code before the learned Trial Judge and seek for dismissal of the suit, if the suit has become infructuous. Applying the law laid down by the learned Judge to the facts of the present case, it is always open to the defendants 1 and 2 to file an application under



C.R.P.No.2338 of 2023

Section 151 CPC to strike off the plaint stating that subsequent to the presentation of the suit, the parties had settled the matter, and therefore nothing remains for further adjudication. If such an application is taken out, the plaintiff/respondent always have a right to file a counter and bring forth before the Trial Court the facts which might throw light on the prayer that has been made by the defendants 1 and 2.

6. When such a course of action is available to the defendants 1 and 2 before the Trial Court, I am not inclined to exercise the powers under Article 227 of the Constitution of India and dismiss the suit as infructuous. This Court has jurisdiction to warrant interference and can reverse the order passed by the learned Trial Judge, only if it is erroneous. Granting liberty to the revision petitioners/defendants 1 & 2 to file an application before the Trial Court, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

03.06.2024

Index:Yes/No

Internet : Yes / No

Speaking order / Non-speaking order
ds



C.R.P.No.2338 of 2023

To:

WEB COPY

- 1.The Judge
XX Assistant City Civil Court
Chennai.
- 2.The Section Officer
VR Section
High Court, Chennai.



WEB COPY



C.R.P.No.2338 of 2023

V.LAKSHMINARAYANAN,J.

ds

C.R.P.No.2338 of 2023

03.06.2024