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C.R.P.(PD).No.2662 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.2662 of 2021
and C.M.P.No.19629 of 2021

N.Natesan

... Petitioner

VS

1.Mani

2.Neelaveni

3.Chinnuswamy

4.Radhakrishnan

5.Shanmugam

6.Ravinathan

7.Arul

8.The Sub-Registrar,
Pallipalayam.

... Respondents

Prayer: Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, praying to set aside the order and decretal order dated 14.09.2021 passed in unnumbered suit 6173 of 2020 on the file of the Sub-Court, Tiruchengode.



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For Petitioner : Mr.S.Viswanathan
for M/s.Dass and Viswa Associates

For R1 to R7 : Mr.C.Pushparaj

For R8 : Mr.C.Sathish
Government Advocate

ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below rejecting the plaint.

2. The order rejecting the plaint is a deemed decree and therefore, the party aggrieved by the same shall file an appeal before the Court to which the regular first appeal will lie. Therefore, the civil revision petition filed under Article 227 of the Constitution of India is not maintainable challenging the order rejecting the plaint.

3. I had an occasion to consider the maintainability of revision against the order rejecting the unnumbered plaint in ***T.Kumar vs. Pavai Varam Educational Trust*** reported in ***MANU/TN/9817/2022***, the relevant observation in the said case law reads as follows:-



“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 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



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“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.”

4. In view of the law laid down in the above mentioned case law, the Civil Revision Petition is not maintainable and consequently, the same is dismissed with liberty to petitioner to file regular appeal challenging the order of rejection of plaint. No costs. Consequently, the connected civil miscellaneous petition is closed.

05.01.2024

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

Note to Registry:-

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



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To

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1.The Sub-Court, Tiruchengode.

2.The Sub-Registrar,
Pallipalayam.



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S.SOUNTHAR, J.

dm

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