



C.R.P.(NPD).No.1978 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 02.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(NPD).No.1978 of 2019

M.D.Sadagopan

... Petitioner

VS

1.Vasantha

2.Thulasi

3.M.D.Janardhanam

4.M.D.Lakshmipathi

5.J.Balaji

6.J.Meenakshi

7.Minor L.Yuvaran

S/o M.D.Lakshmipathi,
Represented by his father, next friend &
Natural Guardian M.D.Lakshmipathi,
No.35, Bhajanai Koil Street,
Mathur Village, Sriperambudur Taluk,
Kancheepuram District.

8.M/s. Arun Excello Infra Projects Pvt. Ltd.

Represented by its Managing Director,
“Bhattad” Towers, No.18, West Cott Road,
Royapettah, Chennai – 600 014.

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9.The District Collector,
Kancheepuram, Kancheepuram District.

10.The Sub-Registrar,
Sriperumbudur Sub-Registrar Office,
Kancheepuram District.

11.The Sub-Registrar,
Sunguvarchatram Sub-Registrar Office,
Kancheepuram District.

... Respondents

Prayer: Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, praying to allow the above Civil Revision Petition and set aside the order to number the O.S and dispose on merits dated 27.03.2014 passed by the District Court No. II, Kancheepuram in O.S.Sr.No.3386 of 2013.

For Petitioner : Mr.S.Anil Sandeep

For R3, R4 and R7 : Mr.T.M.Mano
for M/s.Paul and Paul

For R8 : M/s.R.Kamala Rani

For R9 to R11 : Mr.C.Sathish
Government Advocate (CS)

For R1 and R6 : Batta and Want of Abroad

ORDER

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

2. The learned counsel appearing for the revision petitioner submitted



that an order passed by the Court below rejecting the plaint even before numbering cannot be treated as a deemed decree and therefore, the revision under Section 115 of the Civil Procedure Code is maintainable.

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.

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*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.”

4. In view of the settled position that no revision will lie against the order rejecting even unnumbered plaint, the Civil Revision Petition filed by the petitioner is not maintainable and as a necessary consequence, the same is



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dismissed with liberty to the petitioner to file a regular appeal challenging the order impugned in this revision. No Costs.

02.01.2024

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 dated 27.03.2014 made in Unnumbered OS.SR.No.3386 of 2013 to the learned counsel for the petitioner.

To

- 1.The District Court No. II,
Kancheepuram.
- 2.The District Collector,
Kancheepuram, Kancheepuram District.
- 3.The Sub-Registrar,
Sriperumbudur Sub-Registrar Office,
Kancheepuram District.
- 4.The Sub-Registrar,
Sunguvarchattram Sub-Registrar Office,
Kancheepuram District.



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S.SOUNTHAR, J.

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