



C.R.P(MD)No.678 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated: 18.07.2024

CORAM

THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

**C.R.P(MD)No.678 of 2024
and
C.M.P(MD).No.3402 of 2024**

Pandidurai

... Petitioner

Vs.

Sumathi

...Respondent

Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records and set aside the fair and decreetal order passed by the Subordinate Court, Theni, Theni District in I.A.No.4 of 2023 in O.S.No.6 of 2021 on 23.01.2024 and allow this civil revision petition.

For Petitioner

: Mr.M.Jothi Basu

For Respondent

: Mr.V.P.Rajan

ORDER

The civil revision petition is filed aggrieved by the fair and decreetal order of the learned Subordinate Judge, Theni, dated 23.01.2024, whereby an application under Order 7 Rule 11 of the Code of Civil Procedure was rejected by the trial Court.



C.R.P(MD)No.678 of 2024

WEB COPY

2. The trial Court, after considering the case of the parties, rejected it by holding that whether the suit is barred by *res-judicata* or not, has to be considered in detail by taking into consideration what was the subject matter was directly or indirectly in issue in the earlier suit and the same requires evidence and by leaving open all the contentions of the parties, the petition is dismissed.

3. When the matter cannot be rejected at the threshold by taking into account of the plaint averments in the earlier decree alone and it requires further consideration, the approach of the trial Court in this regard leaving the contention open for the parties to be raised in the written statement cannot be found fault with.

4. The learned counsel at this stage would submit that the trial Court can be directed to dispose of the suit at an early date.

5. The learned counsel for the respondent does not have an objection for such a course.



C.R.P(MD)No.678 of 2024

WEB COPY

6. Since the suit is now at the stage of filing written statement itself, the defendant shall file written statement at the earliest, the Civil Revision Petition is disposed of on the following terms:-

(i)The order of the learned Subordinate Judge, Theni, in I.A.No.4 of 2023 in O.S.No.6 of 2021, dated 23.01.2024 shall stand upheld;

(ii)The learned Subordinate Judge, Theni, is requested to take up the suit in O.S.No.6 of 2021 for expeditious disposal and dispose of the same, in any event, within a period of six months from the date of receipt of a copy of this order.

No costs. Consequently, connected Miscellaneous Petition is closed.

18.07.2024

NCC:Yes/No
Index:Yes/No
Rmk

To
The Subordinate Judge, Theni, Theni District.



WEB COPY



C.R.P(MD)No.678 of 2024

D.BHARATHA CHAKRAVARTHY, J.

Rmk

C.R.P(MD)No.678 of 2024

18.07.2024