



C.R.P.(MD)No.2114 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 09.09.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.2114 of 2024

and

C.M.P.(MD)No.12067 of 2024

D.Thangaraj Pandian

... Petitioner/5th Defendant

Vs.

P.K.Muthusamy (Died)

... Plaintiff

1.Jothi

2.Nandhini

3.Sundarapandi

4.Senthil Eswaran

5.Munipriya

6.Munilakshmi

... Respondents 1 to 6/
Plaintiffs 2 to 7

7.Muthuvijayan

8.Rajammal

9.Muthulakshmi

10.Pandiammal

11.Subramanian

... Respondents 7 to 10/
Defendants 1 to 4



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12.The Sub Registrar,
Registration Department,
Vilathikulam,
Tuticorin District.

13.The Sub Registrar,
Registration Department,
Keezhur, Tuticorin District.

... Respondents 11 to 13/
Defendants 6 to 8

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to strike off the plaint in O.S.No.17 of 2019 on the file of the Sub Court, Mudhukulathur, Ramanathapuram District and allow the Civil Revision Petition.

For Petitioner : Mr.B.Prahalad Ravi

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ORDER

Heard the learned counsel for the revision petitioner.

2.The revision petitioner wants this Court to strike off O.S.No.17 of 2019 on the file of the Sub Court, Mudukulathur.

3.The Hon'ble Supreme Court in the decision reported in **(2019) 9 SCC 538 (Virudhunagar Hindu Nadargal Dharma Paribalana Sabai vs. Tuticorin**



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Educational Society) held that when the remedy under Order VII Rule 11 of the Civil Procedure Code is available, the defendant ought not to be allowed to invoke Article 227 of the Constitution of India. The petitioner's case is that the plaintiff has no cause of action to file the present suit. If that be so, it falls within scope of Order VII Rule 11 of the Civil Procedure Code.

4.It is also seen that the suit is more than five years old. The learned counsel for the petitioner asserts that trial is yet to commence. If that be so, the petitioner can very well file a petition before the Court below under Order VII Rule 11 of the Civil Procedure Code.

5.Granted such liberty to the revision petitioner, this civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

09.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
ias

To:

The Sub Court,
Mudhukulathur,
Ramanathapuram District.



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G.R.SWAMINATHAN, J.

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