

CRP.No.1431 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Order reserved on : 05.06.2025

Order pronounced on : 13.06.2025

CORAM

THE HON'BLE MR. JUSTICE P.B.BALAJI

CRP.No.1431 of 2025
& C.M.P.No.8437 of 2025

A.V.S.Balasubramanian

..Petitioner

Vs.

1.Kolanji @ C.Chandramohan
2.G.Srinivasan

..Respondents

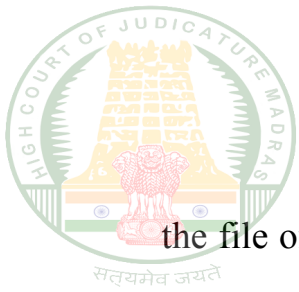
Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records, relating to O.S.No.202 of 2024 on the file of the Sub-Court, Sirkali and strike off the same from file by imposing exemplary costs on the respondents.

For Petitioners : Mr.T.P.Manoharan
Senior Counsel for
Mr.T.M.Naveen

For Respondents : No appearance

ORDER

This Civil Revision Petition has been filed under Article 227 of Constitution of India seeking to strike off the plaint in O.S.No.202 of 2024 on



the file of the Sub-Court, Sirkali, and also for imposing exemplary costs on the respondents.

2.I have heard Mr.T.P.Manoharan, learned Senior Counsel for Mr.T.M.Naveen, learned counsel for the revision petitioner. The respondents, despite service of notices in the revision petition, have not chosen to appear either in person or through any counsel. I have gone through the records produced before me by way of typed set of papers.

3.Mr.T.P.Manoharan, learned Senior Counsel appearing for the learned counsel on record for the petitioner would contend that the suit is an abuse of process of law and a clear attempt in re-litigation. He would invite my attention to the earlier civil proceedings which commenced in the year 2008 and came to attain finality before this Court on 20.12.2023 in S.A.No.274 of 2021. The learned Senior Counsel would further submit that the 2nd respondent was party to the earlier proceedings upto this Court and in order to hoodwink the Court and get over adverse concurrent verdicts, the 2nd respondent has joined hands with the 1st respondent and initiated a suit in O.S.No.202 of 2024 before the Sub-Court, Sirkali. The learned Senior Counsel would also bring to my notice the orders passed by this Court in Cont.P.No.2454 of 2024, where this Court



gave protection to the petitioner's possession of the suit property. The learned

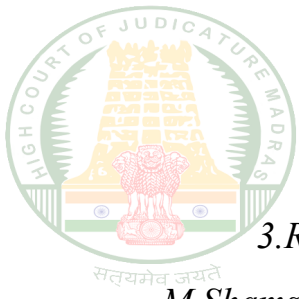
Senior Counsel would further submit that the all earlier judgments and decrees ended in favour of the revision petitioner and the 1st respondent is only a puppet at the hands of the 2nd respondent and the suit is not only a clear abuse but also vexatious, collusive and liable to be struck off.

4.The learned Senior Counsel would further submit that the revision petitioner, who is aged 80 years, is suffering from various physical ailments and the present suit filed by the 1st respondent arraying the revision petitioner as the 1st defendant and the 2nd respondent as the 2nd defendant has caused further mental agony to the revision petitioner. To add salt to injury, despite having filed the suit, it is only the revision petitioner who has been diligently appearing before this Court and the 2nd respondent has chosen to remain ex-parte and neither the 1st respondent who is the plaintiff in the suit nor his counsel have been appearing before the Trial Court.

5.The learned Senior Counsel would place reliance on the following decisions:

1.N.Babu Vs. S.Shanmugam (2013 (1) CTC 180).

2.Surya Devi Rai Vs. Ram Chander Rai & Others ((2003) 6 SCC 675).



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3.*Ranipet Municipality Rep. by its Corner & Special Officer, Ranipet Vs. M.Shamsheerkan (1998 (1) CTC 66).*

4.*N.A.Chinnasamy & Another Vs. S.Vellingirinathan (2013 (6) CTC 809).*

6.I have carefully considered the submissions advanced by the learned Senior Counsel, Mr.T.P.Manoharan. I have also gone through the judgments that have been relied on by the learned Senior Counsel in support of his contentions.

7.O.S.No.202 of 2024 has been filed by the 1st respondent, seeking the relief of permanent injunction to restrain the 1st defendant from interfering with the plaintiff's peaceful possession and enjoyment of the suit property, except by due process of law. Even at the outset, it is to be noted that no relief is sought for against the 2nd respondent, who has been arrayed as the 2nd defendant in the suit. Even on a reading of the plaint, I am unable to see any cause of action for the suit being instituted as against the 2nd respondent.

8.According to the plaintiff in O.S.No.202 of 2024, the suit property belonged to Sundarambal, who is the mother of the 1st defendant and grandmother of the 2nd defendant. The plaintiff has pleaded that the suit



property is in the possession of the 2nd defendant and that the said Sundarambal had executed a Settlement Deed in favour of the 1st defendant initially and subsequently, the same was cancelled and a fresh Settlement Deed came to be executed in favour of the 2nd defendant. The plaintiff does not even feign ignorance of the disputes between the 1st and the 2nd defendant before various Courts.

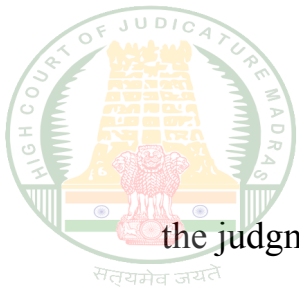
9.It is the case of the plaintiff that he entered into a rental agreement even during the lifetime of the said Sundarambal and also paid an advance of Rs.3000/- to her and was inducted as a tenant on a monthly rent of Rs.300/-. The plaintiff has further stated that he has set up MDMK party office in the suit property. The plaintiff has further pleaded that subsequent to the Settlement Deed executed by the said Sundarambal in favour of the 2nd defendant, after cancelling the Settlement Deed executed in favour of the 1st defendant, the plaintiff entered into a rental agreement with the 2nd defendant on 21.05.2008, agreeing to pay a monthly rent of Rs.700/-. He has further stated that he has paid an advance of Rs.5,000/- to the 2nd defendant. The plaintiff claims to have paid electricity consumption charges as well. The cause of action for the suit, as pleaded by the plaintiff, is that the 1st defendant i.e the revision petitioner on 06.02.2024, came to the suit property and demanded the plaintiff to vacate and



hand over vacant possession. Thereafter, the 1st defendant had proceeded to lodge a complaint against the plaintiff and the 2nd defendant and a criminal case was also registered in Crime No.37 of 2024 on the file of the Sembanarkoil Police Station. The plaintiff further alleged that on 13.06.2024, the 1st defendant along with 20 unruly elements came to the suit property and demolished the party office. The plaintiff has put up a fresh construction in the suit property, besides also lodging a complaint against the 1st defendant and others, which is under investigation in Crime No.168 of 2024. The plaintiff, further alleging that the plaintiff is in possession and enjoyment of the suit property, has sought for a bare injunction to protect his alleged possession.

10.From a careful reading of the plaint, it is seen that the plaintiff claims only under the 2nd defendant and not otherwise. The plaintiff is not even before the Court stating that he is not aware of any disputes between the defendants. On the contrary, the plaintiff has categorically averred in the plaint that there are several disputes pending in various Courts, as between the defendants.

11.The revision petitioner has made available the judgment and decree in O.S.No.205 of 2001 before the Sub-Court, Sirkali, the judgment and decree in A.S.No.22 of 2011 before the Additional Sub Court, Mayiladuthurai, as well as



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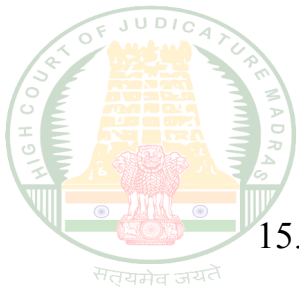
the judgment of this Court in S.A.No.274 of 2021 dated 20.12.2003.

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12.I have paid my anxious and careful consideration to the above judgments.

13.It is seen that the 2nd respondent approached the Principal District Munsif Court, Sirkali in O.S.No.205 of 2001 seeking the relief of a permanent injunction to restrain the revision petitioner herein from in any manner interfering with his peaceful possession and enjoyment of the very same property.

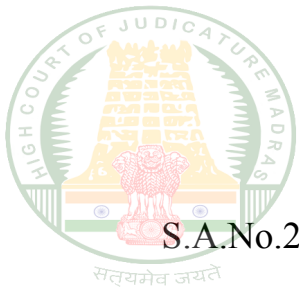
14.The case of the 2nd respondent was that pursuant to the settlement deed executed by his grandmother, Sundarambal on 25.04.2008, the 2nd respondent was in peaceful possession and lawful enjoyment of the suit property and that he has leased the first item of the suit property to a third party as well. On the very same allegation of alleged trespass and threat, the 2nd respondent had approached the Court in O.S.No.205 of 2001. The said suit was tried on merits and after elaborate trial, the parties having led oral and documentary evidence, the Trial Court held that the plaintiff (2nd respondent) had not proved his possession and dismissed the suit for permanent injunction.



15. Aggrieved by the dismissal of the suit, the 2nd respondent preferred

First Appeal in A.S.No.22 of 2011 on the file of the Additional Subordinate Court, Mayiladuthurai. The said appeal came to be dismissed, confirming the judgment and decree of the Trial Court. Not satisfied with the concurrent findings rendered by the Trial Court as well as the First Appellate Court, the 2nd respondent approached this Court and preferred a Second Appeal. This Court finding that the Trial Court as well as the First Appellate Court had rightly assessed the evidence and rendered a categorical finding that the revision petitioner alone has been in possession of the suit property right from 2001, dismissed the Second Appeal.

16. It is thereafter that the present suit has been instituted by the 1st respondent. As already discussed herein above, the 1st respondent has no independent right or claim over the suit property and even in the present suit, his claim is only that he is the tenant under the 2nd respondent. Therefore, the 1st respondent cannot get any better right or claim than the 2nd respondent. The question of possession has been discussed by the Trial Court in O.S.No.205 of 2001 and re-appreciated in A.S.No.22 of 2011 and the Trial Court as well as the First Appellate Court have rejected the case of the 2nd respondent that he is in physical possession of the suit property. This Court, while dismissing



S.A.No.274 of 2021, has also confirmed the concurrent findings rendered by

the two Courts, namely the Trial Court and the First Appellate Court.

17.In the light of the above, the plaintiff in the present suit cannot lay a suit for permanent injunction as if he is in physical possession of the suit property, especially, claiming that his possession is as a tenant under the 2nd respondent, who has lost upto this Court, after claiming to be in physical possession of the suit property.

18.Even in the plaint, there are no details furnished with regard to the above cases that came upto this Court and ended against the 2nd respondent, though the plaintiff does plead knowledge about the litigation between the defendants. When the case of the 2nd respondent has been disbelieved upto this Court in Second Appeal proceedings, there is absolutely no merit in the unilateral averments and self serving statements made by the 1st respondent/plaintiff, as if he is in possession of the suit property. The same is also not substantiated by any documentary evidence. Certificates issued by the Panchayat Board Councillors and Village Administrative Officers cannot side step the findings of the competent Civil Court that the 2nd respondent was never in possession of the suit property. That being the position, the 1st respondent, as



plaintiff, cannot claim to be in possession of the suit property.

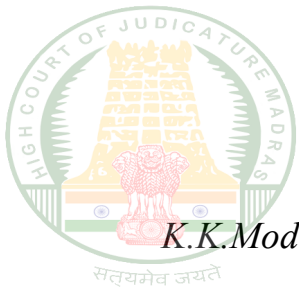
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19.Right from *K.K.Modi's* case, the Hon'ble Supreme Court as well as this Court have consistently held that if there is a case of re-litigation, the Court is empowered to strike off the plaint at the earliest instance.

20.Coming to the decisions, that have been relied on by the learned Senior Counsel for the petitioner, in *N.Babu's* case, this Court, following the ratio laid down by the Hon'ble Supreme Court, held that if there is a clear case of re-litigation and abuse of process of Court and facts are not in dispute, then the Court can exercise extraordinary jurisdiction under Article 227 of Constitution of India and strike off the plaint.

21.In *Surya Dev Rai's* case, the Hon'ble Supreme Court held that the High Court, exercising the jurisdiction under Article 227 of Constitution of India, can go to the rescue of the person aggrieved, even *suo motu*, if it is warranted, to pave the way for justice and removal of obstacles thereto.

22.In the oft-quoted decision of the Hon'ble Supreme Court in



K.K.Modi's case, the Hon'ble Supreme Court held that re-litigation is an abuse

of process of Court and even if the re-agitation was not amounting to *res judicata*, yet it would still amount to an abuse of process of Court and a spurious or vexatious claim can be stopped by invocation of powers under Article 227 of Constitution of India.

23.In *Ranipet Municipality's* case, this Court held that a party to the litigation is guilty of abuse of process of Court when he resorts to or encourages multiplicity of proceedings; circumvents law by indirect means; institutes vexatious, obstructive or dilatory actions; and institutes a suit by a puppet plaintiff.

24.In *N.A.Chinnasamy's* case, this Court held that the High Court has a superintending power over all Subordinate Courts under Article 227 of Constitution of India and if the Court can clearly infer that the suit which has been filed is an abuse of process of Court, then in order to prevent abuse and to avoid miscarriage of justice, this Court is empowered to strike off the plaint exercising power under Article 227 of Constitution of India.

25.I have kept in mind the ratio laid down by the Hon'ble Supreme Court



and this Court in the above cases and also being fully conscious of the fact that

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the power under Article 227 of Constitution of India has to be exercised very sparingly and not in a routine manner. In order to ascertain whether there is any abuse of process of law, as can be seen from the detailed discussions made herein above, on the face of the plaint, it is explicitly clear that the 1st respondent has been set up by the 2nd respondent. The 2nd respondent has already suffered a decree of dismissal in his suit for permanent injunction, where he came to Court with a specific case that he was in absolute possession and enjoyment of the suit property. The dismissal of the suit came to be confirmed not only by the First Appellate Court but also by this Court in Second Appeal proceedings.

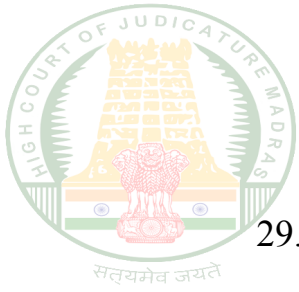
26. Soon thereafter, the present suit has been filed as if the plaintiff is a tenant under the 2nd respondent. Though the plaintiff claims that he was a tenant even under the original owner, Sundarambal, on going through the documents filed in support of the plaint, I am able to see that no such Lease Deed executed between the Sundarambal and the plaintiff has been filed. The only rental deeds that are relied on by the plaintiff or those that have been entered into with the 2nd respondent. When the 2nd respondent has miserably failed to prove his possession and suffered decrees concurrently upto this Court, it is clearly a



collusive attempt that has been made, with the connivance of the plaintiff to set up a case as if the plaintiff is in possession of the suit property under the 2nd defendant.

27.Strangely, the rental deed of the years 2008, 2010, 2013, 2018 and lastly 2024 have been filed as suit documents. During all these relevant years, save the last rental deed, admittedly, disputes were pending between the revision petitioner and the 2nd respondent and therefore, the findings of the Courts in the earlier civil proceedings would certainly bind the 1st respondent/plaintiff as well. As rightly pointed out by the learned Senior Counsel, Mr.T.P.Manoharan, the present suit is clearly a case of re-litigation and the present plaintiff has been evidently set up by the 2nd respondent, soon after suffering a dismissal in the Second Appeal proceedings before this Court.

28.Under Article 227 of the Constitution of India, this Court has superintendence over all courts and cannot remain a mute spectator when a glaring case of re-litigation is brought to its notice. Such rampant abuse of process of Court has to be nipped in the bud and a person who has diligently defended a vexatious suit filed against him and succeeded upto this Court, cannot be forced to go through painful litigation over and over again.



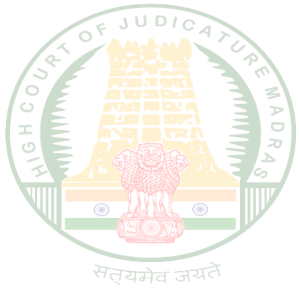
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29. Having found that the plaint is clearly an attempt in re-litigation and an abuse of process of law, I have no hesitation in exercising powers under Article 227 of Constitution of India to strike off the plaint from its file.

30. In fine, the Civil Revision Petition is allowed and the plaint in O.S.No.202 of 2024 on the file of the Sub-Court, Sirkali, is struck off from its file. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

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Speaking/Non-speaking order
Index : Yes/No
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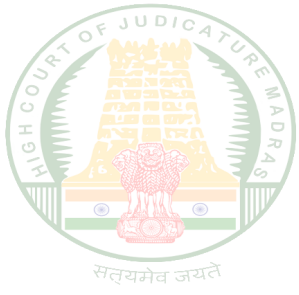
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To

1.The Sub-Court, Sirkali.



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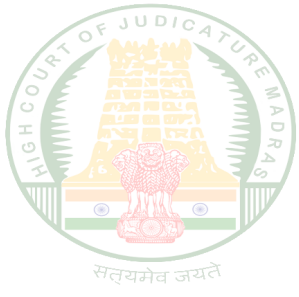


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Pre-delivery order made in
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& C.M.P.No.8437 of 2025



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