



C.R.P. No.1701 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2025

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

C.R.P. No.1701 of 2024

1.Rajammal
2.G.Manoharan
3.G.Sakthivel
4.G.Thirumurugan
5.G.Suresh

... Petitioners

Vs.

1.Salammal
2.Madhaiyan
3.Jayamani
4.Sigamani
5.Latha alias Valarmathi
6.Sivaji

... Respondents

Prayer: Civil Revision Petition filed under Section 227 of Civil Procedure Code praying to set aside the order passed in unnumbered O.S.No.... of 2023 in C.F.R.No.3787 of 2023 dated 22.11.2023 on the file of District Munsif Court at Dharmapuri and consequently, direct the District Munsif Court at Dharmapuri to number the suit filed in unnumbered O.S. No..... of 2023 in C.F.R.No.3787 of 2023.

For petitioner : Ms.S.Thankira

For Respondent : Mr.B.Soundarapandiyan



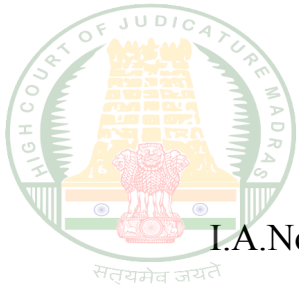
C.R.P. No.1701 of 2024

ORDER

WEB COPY

The present civil revision petition has been filed challenging the order rejecting the plaint in unnumbered O.S.No..... of 2023 in C.F.R.No.3787 of 2023 dated 22.11.2023 on the file of District Munsif Court at Dharmapuri.

2.The respondents herein had filed a suit in O.S.No.147 of 2015 before the District Munsif at Dharmapuri for declaration of title and permanent injunction against the petitioners in respect of the property in Survey No.212/11A to an extent of 0.0.50 hectares situated at Nekkundhi Village, Dharmapuri District. The defendants therein, who are the revision petitioners, were set ex-parte on 18.12.2016 and thereafter, the suit came to be decreed ex-parte on 26.10.2017. Seeking to set aside the ex-parte decree dated 26.10.2017 in O.S.No.147 of 2015, the petitioners herein had filed I.A. No.1260 of 2017. The trial Court, vide order dated 26.03.2018, had allowed the petition subject to payment of cost of Rs.2,000/-. However, since the condition imposed was not complied with by the petitioners, the said application was dismissed on 16.04.2018. Subsequently, the petitioners had filed I.A.No.511 of 2018 in



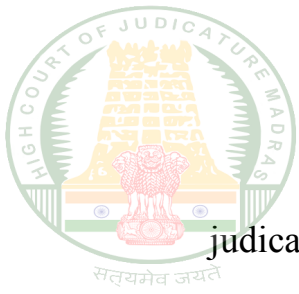
C.R.P. No.1701 of 2024

I.A.No.1260 of 2017 in O.S.No.147 of 2015 before the District Munsif

WEB COPY

at Dharmapuri, seeking extension of time to pay the aforesaid cost and the said application was also dismissed on 18.06.2019. Challenging the said order, the petitioners herein had filed CRP No.2255 of 2019 and the same was dismissed by this Court vide order dated 03.01.2023 observing that the petitioner's attitude is only to drag on the proceedings and nothing else.

3. Further more, the petitioners herein had also filed a suit in O.S.No.150 of 2015 before the District Munsif Court, Dharmapuri seeking declaration of title for the property in Survey No.212/11B to an extent of 0.901.0. Pending suit, the petitioners had filed I.A.No.411 of 2019 in O.S.No.150 of 2015 seeking to amend the pleadings in the plaint filed therein, to array the property in Survey No.212/11A as a 'C' schedule property in the suit and the said application was dismissed on 08.11.2022. Challenging the same, the petitioners had filed C.R.P.No.27 of 2023 and the same was also dismissed on 04.06.2024. The very same petitioners, again tried to file a suit for the very same relief in respect of the same property in Survey No. 212/11A in C.F.R.No.3787 of 2023 and the plaint presented was returned on 13.09.2023 on the ground of res

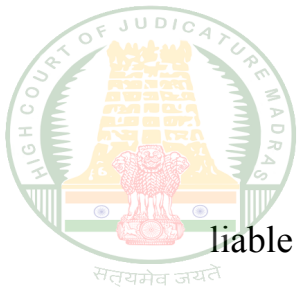


C.R.P. No.1701 of 2024

judicata. Again it was re-presented on 11.10.2023 and on 01.11.2023 and

thereafter, upon hearing the petitioners/plaintiff, the Court below had rejected the plaint on the ground that the dispute relating to the very same suit property has already been decided and decreed in O.S.No.147 of 2013 vide judgment dated 26.10.2017. Challenging the rejection order, the above civil revision petition has been filed.

4.Learned counsel for the petitioners would submit that when the court below is competent to decide the subject matter of the plaint, the said court ought to have entertained the plaint presented by the petitioner in C.F.R.No.3787 of 2023. He would further submit that the court below had failed to consider that the principle of res judicata will not apply as the respondents/defendants had got an ex parte decree in their favour in O.S.NO.147 of 2015 on 26.10.2017 due to non filing of the written statement. He would further contend that the cause of action and the description of the suit schedule mentioned property are different in both the suits. He would also submit that the court below had failed to consider the rights of the petitioners/plaintiffs to enjoy the suit property, in which, they have been in possession since 1983 and ought to have numbered the suit and thereby, the order passed by the court below is



C.R.P. No.1701 of 2024

liable to be set aside and the civil revision petition has to be allowed.

WEB COPY

5. Learned counsel for the respondents would submit that when the petitioners had got the remedy of appeal as against the judgment passed in O.S.NO.147 of 2015 dated 26.10.2017, they ought not to have challenged the order passed in the unnumbered O.S.No.... of 2023 in C.F.R.No.3787 of 2023 dated 22.11.2023 on the file of District Munsif, Dharmapuri. He further submitted that the unnumbered suit was filed for the very same relief of declaration of title of the suit property and the very same dispute has already been decided and a decree had been passed in O.S.NO.147 of 2015 dated 26.10.2017 and thereby, the court below had rightly passed the order rejecting the plaint in Unnumbered O.S.No. ... of 2023 in C.F.R.No.3787 of 2023 on 22.11.2023 and as such, the present civil revision petition is liable to be dismissed.

6. Heard the learned counsel for the petitioners and the respondents and perused the materials available on record.

7. Without challenging the decree made in O.S.No.147 of 2015, the petitioners had filed Unnumbered O.S.No.... of 2023 in C.F.R.No.3787 of 2023, in which, the trial Court, by an order dated 22.11.2023, had



C.R.P. No.1701 of 2024

rejected the plaint as not maintainable as the dispute relating to the suit property has already been decided and a decree had been passed in O.S.NO.147 of 2015 dated 26.10.2017, which is still in force. This court does not find any infirmity in the order passed by the Trial court and as such, the present civil revision petition lacks merit.

8. Accordingly, the civil revision petition stands dismissed. No costs. It is needless to state that the petitioners are at liberty to file appropriate application under Section 14 of the Limitation Act for exclusion of time taken by him in approaching this Court by means of the above civil revision petition.

03.04.2025

raa

To

1. District Munsif, Dharmapuri.



WEB COPY



C.R.P. No.1701 of 2024

A.D.JAGADISH CHANDIRA, J.

raa

C.R.P. No.1701 of 2024

03.04.2025