



C.R.P.No.2058 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

**C.R.P.No.2058 of 2022
and C.M.P.No.10588 of 2022**

1.R.Logu @ Loganathan
2.N.Sundaram
3.Kamaraj Nagar Manai Vangiyor
Matrum Kudiyiruppu Sangam,
Cuddalore rep.by its President,
Secretary and the Treasurer,
No.36, Kamaraj Nagar,
Vanniarpalayam,
Cuddalore-600 001.

...Petitioners

Vs.

J.Girija

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 16.12.2021 passed in I.A.No.252 of 2019 in O.S.No.24 of 2019 on the file of the Additional District Munsif Court, Cuddalore.



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For Petitioner : Ms.J.Pooja
for Mr.D.Baskar

For Respondents : Mr.N.U.Pressanna

ORDER

This Civil Revision Petition challenges the order dated 16.12.2021 passed by the learned Additional District Munsif Court, Cuddalore, in I.A.No.252 of 2019 in O.S.No.24 of 2019.

2. O.S.No.24 of 2019 is a suit filed for the following reliefs:-

“(i) directing the defendants by an order of mandatory injunction to remove the illegally erected batminton court and volley ball court and restore it to its original vacant status within a date fixed by this Hon'ble Court failing which removing the same by due process of law by this Hon'ble Court.

(ii) by an order of permanent injunction restraining the defendant and their men from in any manner interfering with the peaceful and enjoyment of the suit property.

(iii) directing the defendant to pay costs and



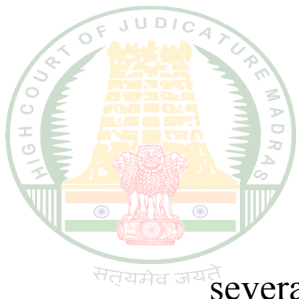
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(iv) granting such other further reliefs as this Hon'ble Court deems fit and proper to grant in the circumstances of the case and render justice.”

3. The case of the plaintiff is that she had purchased the property from the Church of South India on 27.08.1981. Subsequently, the property was plotted out and developed under the name and style of “Kamaraj Nagar”. The suit schedule mentioned property had been reserved for public purpose other than the park and children’s play area etc., She pleaded that the fourth defendant is the Association of the residents and owner of Kamaraj Nagar, and defendants 1 to 3 are the office bearers. The cause of action for the suit was that during the second week of September 2018, the defendants had constructed a badminton court and volley ball court, in and over the suit property, though they do not have any right over the same. Hence, the suit for the aforesaid reliefs.

4. Summons were served and the defendants also entered appearance. They filed a detailed written statement. They pleaded about



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several previous proceedings between the plaintiff's husband and the Church of South India, and about a title suit that had been filed by the plaintiff herself and the dismissal thereof. They pleaded that the Cuddalore Municipality had also initiated a suit and though, it was initially decreed, on appeal it was allowed and remanded but for the reasons best known, the Municipality did not conduct the proceedings further, hence the suit had been dismissed for default.

5. After having filed a detailed written statement, defendants 2 to 4 presented an application for rejection of plaint. They pleaded that the plaint is liable to be rejected as it is barred by the principles of *res judicata*. They also pleaded that the title suit filed by the plaintiff in O.S.No.320 of 1999 had been dismissed on 26.03.2002 and the appeal preferred therefrom too, ended in dismissal on 26.03.2004. Therefore, as the plaintiff had lost her title over the suit property, she is not entitled to pursue the present suit for mandatory injunction.



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6. The learned Judge received this application in I.A.No.252 of 2019 and he called upon the plaintiff to file a counter. The plaintiff filed a counter pointing out that the suit in O.S.No.290 of 1999 was on account of the attempt by the Municipality to trespass into the property and the other suit filed by the plaintiff was not for declaration of her title but one for injunction as against certain third parties, who had attempted to dispossess her. She has accepted that the suit had been dismissed and the appeal had been dismissed as well, but pleaded that the same has not attained finality as she is processing a second appeal before this Court.

7. The learned trial Judge took up the application for hearing and dismissed the same pointing out that the parties in the previous suit are different and the prayers are different and therefore, the principle of *res judicata* is inapplicable. Challenging the same, the present Civil Revision Petition.



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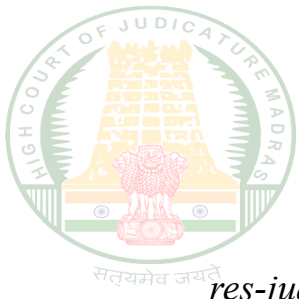
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8. I heard Ms.J.Pooja, for Mr.D.Baskar, for the petitioners and Mr.N.U.Pressanna, for the respondent.

9. It is a settled position of law that a plea of *res judicata* requires the parties raising it to file the pleadings in the previous case, the issues, as well as the judgment rendered by the Court in the previous proceedings to demonstrate that the matter was directly and substantially in issue and has finally been adjudicated. (See, ***Syed Mohammad Salie Labbai vs. Mohd Hanifa (1976) 4 SCC 780***). The relevant portion of paragraph No.8 is extracted hereunder:-

“ In our opinion the best method to decide the question of res judicata is first to determine the case of the parties as put forward in their respective pleadings of their previous suits, and then to find out as to what had been decided by the judgments which operate as res judicata.”

10. By its very nature, a plea of *res judicata* is a mixed question of law and fact. Such being the position, whether the suit is barred by



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res-judicata or not requires evidence to be on record. If a plea requires evidence, obviously it cannot be a subject matter of a petition to reject the plaint.

11. Furthermore, for the purpose of rejection of plaint, a Court goes only into the averments made in the plaint and does not look into the defence that has been raised by the defendants. The plea that the suit is barred by *res-judicata* is not found in the plaint. It is a defence that has been taken by Ms.J.Pooja's client. Therefore, even on first principles, I am not in a position to agree with Ms.J.Pooja that the plaint is liable to be rejected. Consequently, the Civil Revision Petition is dismissed. The order passed by the learned Additional District Munsif Judge at Coimbatore in I.A.No.252 of 2019 in O.S.No.24 of 2019 dated 16.12.2021 is confirmed.

12. The dismissal of the civil revision petition will not be a bar for the defendants from raising the plea of *res-judicata*, as the same has



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already been raised in the written statement. There shall be no order as to costs. Connected miscellaneous petition is closed.

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Index:Yes / No
Speaking Order :Yes / No
Neutral Citation:Yes / No
ssb

To
The Additional District Munsif Court, Cuddalore.



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V.LAKSHMINARAYANAN, J.

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