



CRP.No.2150 of 2025

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 26.06.2025

Order pronounced on : 04.07.2025

CORAM

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

CRP.No.2150 of 2025
& CMP.No.12602 of 2025

1.S.Muthukumar
2.R.Palanisamy
3.P.S.Eswaran
4.A.V.Naveen
5.K.M.Chinnadurai
6.K.N.Ravishankar

..Petitioners

Vs.

1.V.M.Thirumurugan
2.A.Muth Vijayan
3.A.Muth Selvan

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to strike off the plaint in O.S.No.61 of 2025 on the file of the District Munsif Court, Gobichettipalayam, Erode District by allowing the revision.

For Petitioners : Mr.V.Raghavachari
Senior Counsel for Mr.K.Krishnan

For Respondents : Ms.Avanthika Vasu
& Ms.Danyuktaa Shruti



CRP.No.2150 of 2025

ORDER

The defendants 1 to 6 have taken out an application invoking the extraordinary and discretionary jurisdiction of this Court under Article 227 of Constitution of India, seeking to strike off the plaint in O.S.No.61 of 2025 before the District Munsif Court, Gobichettipalayam, Erode.

2.I have heard Mr.V.Raghavachari, learned Senior Counsel for Mr.K.Krishnan, learned counsel for the petitioners and Ms.Avanthika Vasu and Ms.Danyuktaa Shruti, learned counsel for the respondents.

3.Mr.V.Raghavachari, learned Senior Counsel appearing for the revision petitioners would submit that the suit is an abuse of process of law and having been a party to earlier partition suit proceedings, the respondents have chosen to file a fresh suit, despite final decree having been passed in the suit for partition, claiming that they are co-sharers and dwellers, carrying out agricultural activities in the suit property and that their possession should be protected, by grant of permanent injunction to restrain the revision petitioners from in any manner obstructing, disturbing or dispossessing the plaintiffs. The learned Senior Counsel would take me through the suit for partition, the preliminary decree passed therein, the final decree passed on 26.10.2016 and subsequently

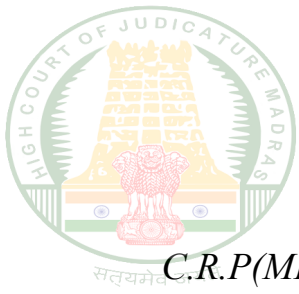


CRP.No.2150 of 2025

mutation of revenue records pursuant to the said final decree proceedings. He would further submit that the First Appeal filed by the plaintiffs in A.S.No.12 of 2017 was also dismissed on 05.11.2024 by the III Additional District Court, Erode and suppressing all these material facts, the plaint has been filed as though the plaintiffs are still co-sharers. He would therefore state that the suit is *ex facie* illegal and a gross abuse of process of law. He would place reliance on the decision of this Court in *Jayaseelan Vs. Sekar (Died) and Others* reported in 2022 (3) CTC 383 and *Tripower Enterprises (Pvt) Ltd., Vs. Selvam Aruldoss*, reported in 2025 (1) CTC 58, in support of his contentions.

4.Per contra, the learned counsel for the respondents/plaintiffs would state that the extraordinary power under Article 227 of Constitution of India cannot be used in a routine manner and the alternate remedy by way of seeking relief under Order VII Rule 11 of CPC is available to the revision petitioners, and without resorting to the same, directly approaching this Court and seeking striking off the pleadings under Article 227 of Constitution of India is not permissible.

5.The learned counsel for the respondents would place reliance on the decision of this Court in *Annadurai Vs. Santhanakrishnan and Others*, in



CRP.No.2150 of 2025

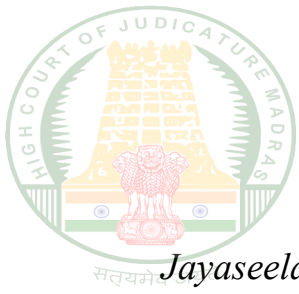
C.R.P(MD) No.2635 of 2023 dated 20.06.2024. The Hon'ble Supreme Court in

Virudhunagar Hindu Nadargal Dharma Paribalana Sabai and Others Vs. Tuticorin Educational Society and Others, reported in (2019) 9 SCC 538, held that the High Court as not only a measure of self imposition, but also a matter of discipline, shall not entertain revisions where specific remedy is available under the CPC.

6.Following the ratio laid down in *Virudhunagar Hindu Nadargal Dharma Paribalana Sabai's case*, this Court in *Annadurai's case*, held that directly approaching the High Court under Article 227 of Constitution of India to strike off the plaint would not be proper and granting liberty to file an application under Order VII Rule 11 of CPC, the revision came to be dismissed.

7.I have carefully considered the submissions advanced by the learned Senior Counsel for the petitioners and the learned counsel for the respondents.

8.There is merit in the submission of the learned Senior Counsel that after suffering a final decree in a suit for partition, the respondents have approached the Court, setting out a cause of action as if they are co-owners and they are entitled to protection. This Court, in *Tripower Enterprises's case* and



CRP.No.2150 of 2025

WEB COPY

Jayaseelan's case referred herein supra, held that if the Court is able to come to a conclusion that the suit is a clear abuse of process of law, then the plaint can be struck off. The case on which reliance is placed on by the respondents was a case where the defendants sought for striking off the plaint on the ground that the earlier litigation attained finality. The issue of *res judicata* came into play and this Court held that the same cannot be taken up for consideration under Order VII Rule 11 of CPC. However, this Court did go into the issue of whether there was re-litigation, suppression of earlier litigation amounting to abuse of process and ultimately held that the defendant would have to take recourse only to provisions of Order VII Rule 11 of CPC before the Trial Court.

9. There are conflicting views that have been taken by Hon'ble Judges of this Court in the above decisions, two of which are in favour of exercising the discretionary relief to strike off the plaint where there is gross abuse of process of Court and in the other judgment, where it is held that approaching the High Court directly would not be the proper remedy even when there is gross abuse of process of Court. However, subsequent to the decision of the Hon'ble Supreme Court in *Virudhunagar Hindu Nadargal Paripalana Sabai's* case, the Hon'ble Supreme Court has dealt with the powers of the High Court under Article 227 of Constitution of India in *K.P.Natarajan and Others Vs.*



CRP.No.2150 of 2025

Muthalammal and Others, reported in (2021) 15 SCC 817, where it has been held that the powers available under Article 227 of Constitution of India is wider than the powers under Section 115 of CPC.

10. Therefore, it is not as if this Court is toothless to strike off the plaint when it is found that the plaint is a gross abuse of process. As already pointed out, despite a final decree being passed and the same also being unsuccessfully challenged before the First Appellate Court, the plaintiffs have come to Court setting out a cause of action as if they are still co-sharers in possession. An unsuccessful party who had full opportunity to contest the suit, cannot be allowed to flog a dead horse and re-litigate the very same issues. Certainly, when such attempts are brought to the notice of this Court, this Court, in exercise of powers under Article 227 of Constitution of India is certainly entitled to nip such vexatious action in the bud.

11. Though the learned counsel for the respondents would contend that the petitioners have a remedy under Order VII Rule 11 of CPC, the ground of abuse of process is not enumerated under Order VII Rule 11 of CPC. A prayer for striking off the plaint on the ground that it is an abuse of process is independent of the remedy under Order VII Rule 11 of CPC. There is no embargo for this



CRP.No.2150 of 2025

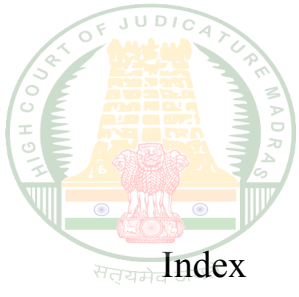
WEB COPY
Court to step in and prevent such abuse of process being perpetuated. Even in *Radhey Shyam and Another Vs. Chhabi Nath and Others*, reported in (2015) 5 SCC 423, delivered by a Three Member Bench of the Hon'ble Supreme Court, though overruled an earlier decision of the Hon'ble Supreme Court in *Surya Dev Rai Vs. Ram Chander Rai and Others*, reported in (2003) 6 SCC 675, held that the jurisdiction under Article 227 of Constitution of India is distinguishable from the one under Article 226 of Constitution of India. Therefore, there is no impediment for exercise of power by this Court to strike off the plaint which is a clear abuse of process.

12.In the light of the above, I am inclined to strike off the plaint even on the admitted facts that have been set out in the plaint, admitting the passing of final decree in the suit for partition.

13.In view of the above, the Civil Revision Petition is allowed. The plaint in O.S.No.61 of 2025 on the file of the District Munsif Court, Gobichettipalayam, Erode District, is struck off. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

04.07.2025

Speaking/Non-speaking order



CRP.No.2150 of 2025

Index : Yes/No

ata

WEB COPY

To
The District Munsif Court, Gobichettipalayam, Erode.



WEB COPY



CRP.No.2150 of 2025

P.B.BALAJI.J,

ata



WEB COPY



CRP.No.2150 of 2025

Pre-delivery order made in
CRP.No.2150 of 2025
& CMP.No.12602 of 2025

04.07.2025