



C.R.P.No.2013 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2025

CORAM :

THE HONOURABLE MR. JUSTICE P.B. BALAJI

C.R.P.No.2013 of 2025

and

C.M.P.No.11612 of 2025

Pon Jayabalakrishnan

... Petitioner

Vs.

J.Radhakrishnan

... Respondent

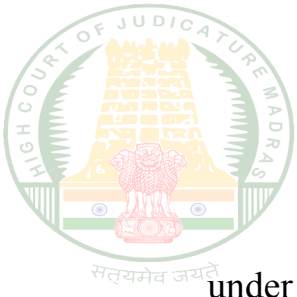
Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set-aside the order dated 01.04.2025 in I.A.No.582 of 2024 in O.S.No.166 of 2021 on the file of Sub Court, Avinashi.

For Petitioner : Mr.N.Murali Kumaran
Senior Counsel
for M/s.MCGAN Law Firm

For Respondents : Mr.K.Gajendiran

ORDER

This Civil Revision Petition has been preferred challenging the order of dismissal of the application filed by the petitioner/defendant



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under Order 7 Rule 11 CPC in I.A.No.582 of 2024 in O.S.No.166 of 2021, dated 01.04.2025 on the file of Sub Court, Avinashi.

2. Heard the learned Senior Counsel for the petitioner and the learned counsel for the respondent.

3. The learned Senior Counsel for the petitioner would take me through the plaint and also the affidavit filed in support of the application seeking rejection of plaint. Learned Senior Counsel would drive home the point that the respondent was never in possession of the subject property and has mischievously included the property belonging to the petitioner in the suit schedule property. He further submits that when admittedly the respondent/plaintiff relies on the settlement agreement which required and mandated the petitioner/defendant to pay a sum of Rs.1,64,00,000/- and such amount has not been paid, without seeking any larger relief of declaration, the bare injunction suit is not maintainable. In this regard, he would invite my attention to the provisions of Section 41 of the Specific Relief Act. He would therefore submit that the order dismissing the application rejecting the plaint is liable to be set aside.

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4. Per contra, learned counsel for the respondent would submit that though the plaintiff has made averments and allegations pertaining to the settlement agreement and the money is due and payable to the petitioner/plaintiff and had reserved right to seek relief in respect of the letter sent by the respondent/defendant not only denying liability to pay the amount to the plaintiff, but on the contrary demanding amount to be paid to the defendant, the said letter has not even been challenged in the said suit, which admittedly is one for bare injunction. It is also seen from the records that the respondent has not obtained leave of the Court under Order 2 Rule 2 CPC for filing any fresh suit for any cause of action already available to the respondent/plaintiff. Thus, any such relief which was available to the respondent/plaintiff on the date of institution of suit for permanent injunction has virtually been given up and it is made clear that the respondent/plaintiff shall not be entitled to even seek amendment to the plaint and at this length of time, especially when the defendant has attempted to reject the plaint invoking provisions of Order 7 Rule 11 CPC.



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5. However, coming to the application for rejection of plaint, I find from the affidavit that none of the grounds which are available to the petitioner/defendant under Order 7 Rule 11 (a – d) CPC have even been pleaded, leave alone substantiated. Therefore, I see no error committed by the trial court in dismissing the application for rejection of plaint.

6. Learned Senior Counsel for the petitioner would also point out that when the plaintiff had admitted even in the plaint that the defendant was liable to pay Rs.1,64,00,000/-, the suit has been valued for Rs.1,00,000/- (permanent injunction) and Rs.10,000/- (mandatory injunction). Therefore, he would submit that for gross under valuation also, the suit is liable to be rejected under Order 7 Rule 11 CPC. Unfortunately, the said arguments are taken for the first time and I do not find any such averments in the affidavit filed in support of the application in respect of Order 7 Rule 11 CPC taken out before the trial court.



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7. Keeping all the defences open to the petitioner/defendant to be canvassed in the pending suit, this Civil Revision Petition is dismissed with a further direction to the Sub Court, Avinashi to dispose of the suit in O.S.No.166 of 2021 within a period of four (4) months from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

10.06.2025

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To

The Sub Court, Avinashi.



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P.B. BALAJI, J.

sp

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