



WEB COPY

CRP No. 2206 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-07-2025

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

CRP No. 2206 of 2025

and

CMP No. 12803 of 2025

1. Subramaniyan
2. Shakthivel

Petitioner(s)

Vs

1. Thirumurugan
 2. The Sub Registrar
- Mailam Sub Registration Office,
Tindivanam Taluk

Respondent(s)

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 05.04.2025 made in I.A.No.470 of 2024 in O.S.No.88 of 2022 on the file of the Learned Additional District Munsif Tindivanam and allow the present Civil revision petition.

For Petitioner(s): P. Dinesh Kumar

For Respondent(s): Mr.B.A.Palaninathan for R1
Mr.D.Gopal, GA for R2

**ORDER**

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The revision is challenging the order dismissing an application under Order 7 Rule 11 of CPC taken out by the revision petitioners / defendants 1 and 2 in the suit. The first respondent has filed a suit in O.S.No.88 of 2022 seeking relief of bare injunction against the statutory authorities to restrain them from effecting any registration of documents that are submitted to them.

2. The learned counsel for the petitioners would submit that as between the plaintiff and defendants 1 and 2, there has already been a partition and the properties that stood allotted to the first respondent / plaintiff were alienated and thereafter, now the petitioner, suppressing the said partition deed has come forward with the present suit, as if the properties that were allotted to the defendants 1 and 2 are joint family properties, wherein the plaintiff is also entitled to share. The learned counsel would also submit that the suit for bare injunction is not maintainable, in view of the particular provisions of Section 41(h) of the Specific Relief Act, 1963 (in short 'the Act') which does not permit grant of injunction when there is efficacious and alternative remedy available to



the plaintiff. The learned counsel also relied upon the decision of this Court in the case of ***S.Umamaheswari Vs.P.Murugesan*** reported in ***2021 (2) CTC 167***.

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3. Per contra learned counsel for the first respondent plaintiff states that the order dismissing the application to reject the plaint is a well considered order and same does not require interference. He would further state that the first respondent / plaintiff has also been advised to take out an application for amending the plaint. He would therefore, state that all these issues can be trashed out before the trial Court, by leading oral and documentary evidence. He prays for dismissal of the above civil revision petition.

4. I have carefully considered the submission made by the parties and perused the materials available on record.

5. Insofar as, the contention regarding the suppression of the earlier partition deed between the parties is concerned, the property has been allotted to the plaintiff, are all issues that are not disclosed in the plaint and on this ground



the plaint cannot be rejected invoking any of the provisions under Order 7 Rule

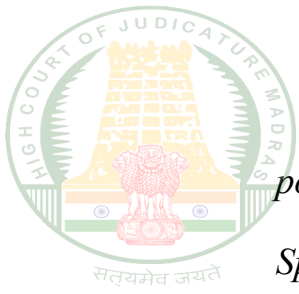
11 of C.P.C. However, there is force in the submission of the counsel for the

petitioner that the relief of bare injunction, in the absence of any substantive

relief, is not maintainable. This Court in *Umamaheswari's case* has held as

under:

“27. A prayer for restraint on alienation can be an Interlocutory prayer in a Suit for Partition or Specific Performance or a Suit seeking a declaratory relief. A restraint of alienation for a limited period could be granted to avoid multiplicity of proceedings. But in a case where the Plaintiff can initiate the appropriate legal proceeding to obtain a larger relief and refuses to do so, the said Plaintiff cannot be favoured with a Decree for Permanent Injunction that too restraining the alienation. The intention of the legislature behind the provisions of the Specific Relief Act as well as the C.P.C., is to prevent multiplicity of proceedings. While Order 2, Rule 2 of C.P.C., mandates the Plaintiff to sue for all the reliefs and prohibits him or her from claiming the reliefs omitted to be sought for at a later point of time. Proviso to Section 34 of the Specific Relief Act debars the Plaintiff from claiming the relief of declaration alone without seeking a further relief, where he or she is in a



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position to seek such further relief and Section 41(h) of the Specific Relief Act restrains the Court from granting an Injunction, when the Plaintiff can sue for a larger relief.”

6. The ratio laid down in the said case is squarely applicable to the facts of the present case. Even in the said decision, the revision was as against an application for rejection of plaint under Order 7 Rule 11 of C.P.C. and this Court, rejected the plaint on the ground that the suit for bare injunction, without a substantive declaratory relief is not maintainable in view of the bar under Section 41(h) of the Act. The facts of the present case are also very similar to the facts of the case that has been decided in ***S.Umamaheswari's case***.

7. In the light of the above, I have no hesitation in holding that suit for bare injunction is not maintainable and the plaint is liable to be rejected. The trial Court however, has erroneously proceeded to dismiss the application finding that the parties have to lead oral and documentary evidence and no case has been made for rejection in the plaint.



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8. This Civil Revision petition is allowed in above terms. No costs.

Consequently, connected miscellaneous petition is closed.

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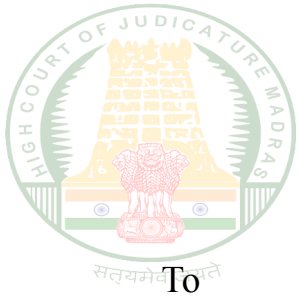
RAP

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To
Additional District Munsif Tindivanam



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P.B.BALAJI J.

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