THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 31.07.2025	Order pronounced on : 22.08.2025

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

CRP.No.2841 of 2025
& CMP.No.16074 of 2025

1.Chitradevi
2.Sri Vigneshwaran @ Shri Vignesh
3.Madhumitha Subhasree ..Petitioners

Vs.

S.B.T.Apparels Pvt., Ltd.,
Rep. by its Director
B.Shanmugavadivel,
S.F.No.346, Kosavampalayam Road,
West Palladam,
Palladam – 641 664. ..Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to strike off the plaint in O.S.No.97 of 2025 on the file of the Sub-Court, Palladam.

For Petitioners : Mr.P.Valliappan
Senior Counsel
for Mr.S.Sithirai Anandan

For Respondent : Mr.N.Ramakrishnan
Assisted by Mr.Advaidh Neelakandan
& Mr.Pranav R.Menon
for M/s.ARK Law Associates

ORDER

This revision has been filed seeking to strike off the plaint in O.S.No.97 of 2025 on the file of the Sub-Court, Palladam.

2.I have heard Mr.P.Valliappan, learned Senior Counsel for Mr.S.Sithirai Anandan, learned counsel for the petitioners/defendants and Mr.N.Ramakrishnan, learned counsel assisted by Mr.Advaidh Neelakandan for M/s.ARK Associates for the respondent/plaintiff.

3.Mr.P.Valliappan, learned Senior Counsel for the petitioners attacks the maintainability of the suit itself while seeking striking off the plaint under Article 227 of Constitution of India. He would first and foremost contend that the suit itself is an abuse of process and when there is remedy available under Section 241 of the Companies Act, 2013, the plaintiff would have to only approach the National Company Law Tribunal and the suit filed before the Civil Court is not maintainable. He would further state that the defendants in the suit are majority shareholders and while the plaintiff is having only 15% shares in Palani Andavar Textiles and that the subject property is an ancestral property of the family members of the father of the plaintiff and that even a partition suit is also pending in O.S.No.584 of 2024. He would also state that the respondent/plaintiff and his brother are also sought to be impleaded in the said partition suit and an application in I.A.No.4 of 2024 is also pending in that regard.

4.The learned Senior Counsel for the petitioners would further state that though in the affidavit filed, it is contended that the suit is barred by not only under Section 241 of the Companies Act, the learned Senior Counsel would fairly states that he is not pressing the said ground but contends that even otherwise there is a bar under Section 430 of the Companies Act, 2013. Inviting my attention to Sections 408 and 424 of the Companies Act, learned Senior Counsel would state that there is a procedure contemplated under the Act, to be followed by not only the Tribunal but also the Appellate Tribunal and when there is a clear comprehensive and inbuilt mechanism available under the statute for seeking relief, the plaintiff cannot approach the Civil Court and file a suit. He would further state that the rights of Mr.B.Shanmugavel would become available only if the suit in O.S.No.584 of 2024 is decided after trial and viewed from any angle, the suit only boils down to nothing but an abuse of process and is liable to be struck off file under Article 227 of Constitution of India. He would therefore pray for the revision being allowed.

5.Per contra, the learned counsel for the respondent would state that firstly, the plaintiff in O.S.No.97 of 2025, which is sought to be struck off is not a party to the earlier suit. The plaintiff is a separate legal entity and has disclosed a specific cause of action for seeking the relief of permanent injunction. In this regard, he would take me through the averments in the plaint in O.S.No.97 of 2025. He would further state that Section 241 of the Companies Act pertains to oppression and mismanagement and is available only to the shareholder, whereas the plaintiff in the present suit is the Company, and there is no mechanism available for the Company to approach the Tribunal and therefore, Section 241 cannot be put against the plaintiff for striking off the plaint.

6.Even insofar as Section 430 of the Companies Act, the learned counsel for the respondent would state that the bar does not apply as it is only the Company which seeks to protects its property. The learned counsel would also invite my attention to the invoices under which the plaintiff Company has purchased the subject looms in respect of which, the reliefs are sought for in the suit. He would further contend that the said looms are not even part of the suit property in the partition suit in O.S.No.584 of 2024 and therefore, there is no question of any abuse of process arising in the present case. He would pray for dismissal of the revision.

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

8.In view of the fair concession shown by Mr.P.Valliappan, learned Senior Counsel for the petitioners that the bar under Section 241 of the Companies Act would not apply, even though the point was urged in the grounds of revision, I am not proceeding to discuss the same. Even insofar as Section 430 of the Companies Act, if at all there is a bar under Section 430 of the Companies Act and the properties are subject matter of the suit which is again a question of fact since on a casual reading of the plaint in the partition suit, I am unable to see there is any mention about the subject looms in any of the schedules in the said property. However, it is the contention of the learned Senior Counsel for the petitioners that the looms are situate within immovable properties that are set out in the schedule to the partition suit. It is again a disputed question of fact and I am not able to see how there can be a presumption in this regard. In this revision, the petitioners only seek to strike off the plaint under Article 227 of Constitution of India. Therefore, the only question that boils down to be decided is to whether the plaint is liable to be struck off in view of the bar under Section 430 of the Companies Act.

9.This remedy is available to the revision petitioners under the provisions of Order VII Rule 11(d) of CPC. The Hon'ble Supreme Court, in *K.Valarmathi and Others Vs. Kumaresan*, reported in *2025 INSC 606* as well as in *Virudhunagar Hindu Nadargal Dharma Paribalana Sabai and Others Vs. Tuticorin Educational Society and Others,* reported in *(2019) 9 SCC 538*, has held that where there is an alternate remedy available, then the party without availing the same, should not straight away approach the High Court seeking rejection of the plaint. I am unable to find any abuse of process on the face of the allegations made by the revision petitioners. Therefore, I do not find any merit in the revision. If at all the petitioners are advised, it is always open to the petitioners to move an appropriate application under Order VII Rule 11 of CPC seeking rejection of the plaint.

10.In view of the above, the Civil Revision Petition is dismissed. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

22.08.2025

Speaking/Non-speaking order
Index : Yes/No
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To

The Sub-Court, Palladam.

P.B.BALAJI.J,

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Pre-delivery order made in
CRP.No.2841 of 2025
& CMP.No.16074 of 2025

22.08.2025