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CRP.No.4427 of 2025 and CMP.No.22653 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

CRP.No.4427 of 2025

and

CMP.No.22653 of 2025

Banumathi

... Petitioner / Petitioner / 2nd Defendant

Versus

Nirmala Devi

... Respondent / Respondent / Plaintiff

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and final order dated 30.06.2025 passed in I.A.No.3 of 2024 in O.S.No.427 of 2017 on the file of the Additional District Munsif Court, Pollachi, allow the application under Order VII Rule 11 CPC and reject the plaint in O.S.No.427 of 2017.

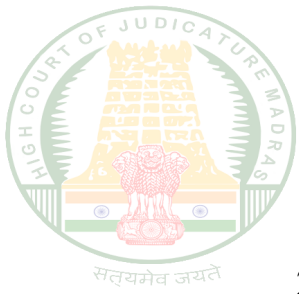
For Petitioner : Mr.D.R.Arun Kumar

For Respondent : Mr.S.Aswin Karthikeyan

ORDER

Unsuccessful second defendant has preferred the present Civil Revision Petition.

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2. The suit in O.S.No.427 of 2017 on the file of the Additional District Munsif, Pollachi, is filed seeking a declaration that the plaintiff is the legally wedded wife of late A.C.Chinna Durai, who married her on 03.02.1976 at Palani, and that she, being blessed with a daughter, continues to be his lawful wife and for permanent injunction restraining the first defendant, Mrs. Padmavathy, and the second defendant, Mrs. Bhanumathi, from in any manner misusing the legal heir certificate bearing certificate No.Pa.Mu.7991/14/m dated 03.08.2014, issued by the 3rd defendant in favour of the defendants 1 & 2. The defendants filed their written statement, and necessary issues were framed. The Plaintiff side evidence adduced, but on the side of the defendants, no witness was examined. Thereafter, the case was posted for arguments. At this stage, the second defendant filed an application in I.A.No.3 of 2024 in O.S.No.427 of 2017 under Order 7 Rule 11(a) and 11(d) of CPC, seeking to reject the plaint in O.S.No.427 of 2017. Upon hearing either side, the Court below *vide* order dated 30.06.2025, dismissed the application on the ground that only the averments in the plaint and its documents ought to be considered while deciding a petition under Order 7 Rule 11 of CPC, and no other documents produced by the defendant



could be taken into account. The Court below further held that the alleged divorce is a matter to be proved during the course of trial and cannot be determined at this nascent stage. Aggrieved over the same, the revision petitioner has filed the present Civil Revision Petition.

3. The learned counsel appearing for the petitioner / second defendant would submit that the plaintiff has filed a suit for declaration that she is legally wedded wife of the late A.C.Chinnadurai. However, a decree of divorce dated 09.11.1987 had already been passed in HMOP.No.90 of 1986 on the file of the Sub Court, Udumalpet, marriage between the late A.C.Chinnadurai and plaintiff / Nirmala Devi. The plaintiff, despite having entered appearance and being fully aware of the HMOP proceedings, has not chosen to challenged or annulled the said decree of divorce obtained by the deceased A.C.Chinnaduri in HMOP.No.90 of 1986 before the Sub Judge, Udumalpet. Instead, she has suppressed the existence of the said decree in the present suit. Therefore, the second defendant has filed a petition under Order 7 Rule 11 of the CPC seeking rejection of the plaint.



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4. Per contra, the learned counsel appearing for the respondent / Plaintiff would submit that the marriage between the plaintiff and the said A.C.Chinnadurai was solemnized on 03.02.1976. A female child, namely C.Priya, was born out of said wedlock in the year 1981. The learned counsel further would submit that the Ex-parte Decree of divorce obtained by deceased A.C.Chinnadurai in the year 1986 in HMOP.No.90 of 1986 before the Sub Judge, Udumelpet, which cannot be accepted as valid, as the same was passed without contest and came to the knowledge of the plaintiff only after the defendant filing of the written statement. The learned counsel further would submit that these facts have been clearly brought out during the cross examination of PW1 and therefore, there is no necessity to entertain the petition at this stage, as the matter can be decided at the time of trial and final arguments.

5. It is seen from the records that the second defendant has filed three documents in I.A.No.3 of 2024 in support of his claim for rejection of the plaint. Ex.P1 is the Register of original petitions, which shows that the respondent / wife was set exparte. Ex.P2 is the Voter's list. However, the plaintiff has denied the divorce proceedings in HMOP.No.90 of 1986. It is settled law that while exercising the power under Order 7 Rule 11 of

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CPC, the Court has to determine the issues only on the basis of the averments made in the plaint, and not on matters contrary to or outside the plaint. On account of the fact that the plaintiff has to establish the necessary legal grounds for the proceedings, the question of whether the plaint is liable to be rejected at the threshold has to be considered. At this stage, the objection raised by the revision petitioner / defendant cannot be taken into account of deciding the issues. It is a settled principle of law that the cause of action is a bundle of facts, both factual and legal, which has to be adjudicated at the time of trial. While deciding an application under Order VII Rule 11 of CPC, the averments in the plaint alone must be looked into. Considering the plaint averments and the arguments advanced on both sides, the Court below has rightly dismissed the petition and there is no reasons warrants to interfere in it.

6. Accordingly, this Civil Revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

17.09.2025

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Index : Yes/No

Speaking order : Yes/No

Neutral Case Citation : Yes/No



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M. JOTHIRAMAN, J.

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To

The learned Additional District Munsif Court, Pollachi.

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