



C.R..P.(PD)(MD).No.172 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)No.172 of 2025

and

C.M.P(MD) No.1158 of 2025

Suhartha @ Furshia Nihal
Represented by her Power Agent,
K.Chandran
No.107, Muthananthapuram,
1st Street, Kovilpatti,
Thoothukudi District.

... Petitioner/
1st Defendant

Vs.

1. N.Ilayalwar

... 1st Respondent/Plaintiff

2. Ramkumarpandian @
Ramkumar Raja

... 2nd Respondent/
2nd Defendant

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to strike out the plaint in O.S.No.120 of 2022 on the file of the learned II Additional District Judge, Thoothukudi.

For Petitioner : Mr.N.Marivel

For R1 : Mr.R.Pon Karthikeyan

For R2 : No appearance



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ORDER

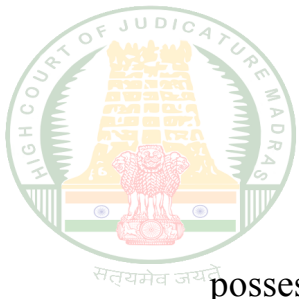
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The 1st defendant in O.S.No.120 of 2022, on the file of the II Additional District Court, Thoothukudi, has filed the present Civil Revision Petition to strike off the plaint in the above said suit.

2. A perusal of the prayer in the plaint reveals that the above suit has been filed for the relief of declaration of title and recovery of possession. Apart from the said prayer, the plaintiff has also prayed for a declaration that Lok Adalat Award, dated 12.03.2022, is null and void. The plaintiff has further prayed for permanent injunction not to disturb his possession.

3. The 1st defendant has filed the present Civil Revision Petition primarily on the ground that the Lok Adalat award has been challenged either under Article 226 or under Article 227 of Constitution of India. On the other hand, a civil suit is not maintainable.

4. The learned counsel appearing for the revision petitioner has contended that though the plaintiff has sought for a prayer for recovery of



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possession, the plaintiff has also sought for a permanent injunction, as if he is in possession of the property. According to him, one prayer is contrary to the other prayer. On the these two grounds, the 1st defendant has sought to strike off the plaint.

5. As far as the plea relating to the maintainability of the suit challenging a Lok Adalat Award is concerned, this Court is of the considered opinion that the suit challenging the Lok Adalat Award is not maintainable, in view of the judgment of the Hon'ble Supreme Court reported in **2017 (5) CTC 775 (Bharvagi Constructions and another Vs. Kothakapu Muthyam Reddy and others)**. However, as far as the other prayers in the plaint are concerned, they have to be adjudicated upon by the trial Court, after trial. The Hon'ble Supreme Court has categorically held that the plaint cannot be rejected partially. Either the plaint has to be rejected as a whole or the partition deed have to undergo the trial. Merely because, one of the prayer in the suit is not maintainable, the entire claim cannot be rejected.



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6. In view of the above said deliberations, the prayer sought for in the Revision Petition cannot be granted. However, the revision petitioner is at liberty to raise all the issues before the trial Court.

7. With the above said observation, this Civil Revision Petition stands disposed of. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The II Additional District Judge,
Thoothukudi.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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