



C.R.P(MD)No.668 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.03.2025**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.668 of 2025

and

CMP(MD)No.3588 of 2025

Noordeen

... Petitioner/Petitioner/
1st Defendant

Vs.

1.Muhyar

2.Mohammed Yasin

3.Sulaiman

... Respondents/Respondents/
Plaintiffs

4.The District Registrar,
Arunmanai, Ramanathapuram Nagar,
Ramanathapuram.

5.The District Collector,
Ramanathapuram District,
Sethupathi Nagar,
Ramanathapuram.

... Respondents/Respondents/
Defendants 2 & 3



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PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed in I.A.No.1 of 2023 in O.S.No.71 of 2022, dated 09.01.2025 by the District Munsif Cum Judicial Magistrate Court, Kadaladi.

For Petitioner : Mr.Sathyasingh
for Mr.S.Sivasudhan

For R4 & R5 : Mr.S.P.Maharajan
Special Government Pleader

ORDER

The 1st defendant in O.S.No.71 of 2022 on the file of District Munsif cum Judicial Magistrate Court, Kadaladi has filed the present revision petition challenging the dismissal of his application filed under Order VII Rule 11 of Code of Civil Procedure.

2. A perusal of the records reveal that the respondents 1 to 3 herein as plaintiffs has filed the present suit for the relief of declaration of title and permanent injunction. Pending suit, the 1st defendant has filed I.A.No.1 of 2023 under Order VII Rule 11 of C.P.C on the ground that the plaintiff had filed a suit with a similar prayer in O.S.Nos.22 of 2013 and 18 of 2019. The suit has already been decided as against the plaintiff, in such circumstances, the present suit for declaration of



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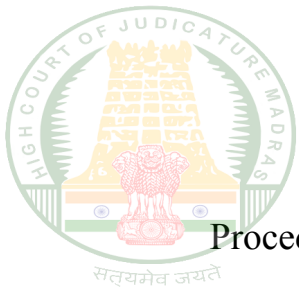
title and permanent injunction is not maintainable. On that ground, the 1st defendant has sought a prayer for rejection of plaint.

3. The trial Court has dismissed the said application on the ground that the plea of res-judicata cannot be considered in the application filed under Order VII Rule 11 of C.P.C. Challenging the same, the present revision petition has been filed.

4. According to the learned counsel appearing for the revision petitioner, when the present plaintiffs have not chosen to challenge the judgment and decree passed in O.S.Nos.22 of 2013 and 18 of 2019, the present suit is clearly barred under Section 11 of C.P.C. Hence, he prayed for entertaining the revision petition.

5. Heard the learned counsel appearing for the revision petitioner and perused the material records.

6. The only ground on which the plaint is sought to be rejected is that the present prayer in the suit is hit by Section 11 of Code of Civil



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Procedure citing the decision made in O.S.Nos.22 of 2013 and 18 of 2019. The Hon'ble Supreme Court in a judgment reported in **2023 (6) MLJ 392 (Keshav Sood Vs.Kirti Pradeep Sood & Others)** has categorically held that the issue of res-judicata could not be decided in an application filed under Order VII Rule 11 of C.P.C, since the said issue involves consideration of the pleadings in earlier suit, the judgment of the trial Court and the judgment of the appellate Court. In view of the categorical finding of the Hon'ble Supreme Court, there are no merits in the revision petition.

7. Hence, this Civil Revision Petition stands dismissed with liberty to the revision petitioner to raise the said plea during trial. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

04.03.2025

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

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WEB COPY To

- 1.The District Munsif Cum
Judicial Magistrate Court,
Kadaladi.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.



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R.VIJAYAKUMAR,J.

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Order made in
C.R.P(MD)No.668 of 2025

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