



C.R..P.(PD)(MD).No.1049 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)No.1049 of 2025

and

C.M.P(MD) No.5743 of 2025

R.Suresh

... Revision Petitioner/
Petitioner/1st Defendant

Vs.

1. R.Thangavel

... 1st Respondent/
1st Respondent/ Plaintiff

2. Natesan

3. Sampath

... Respondents 2 and 3/
Respondents 2 and 3/
Defendants 2 and 3

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 05.02.2025 passed in I.A.No.6 of 2024 in O.S.No.34 of 2024 on the file of the learned Principal District Munsif, Kulithalai, Karur.

For Petitioner : Mr.F.Deepak



C.R..P.(PD)(MD).No.1049 of 2025

WEB COPY

ORDER

The first defendant in O.S.No.34 of 2024 on the file of the Principal District Munsif Court, Kulithalai, Karur, has filed the present Civil Revision Petition challenging the dismissal of his application filed under Order 7 Rule 11 of C.P.C.

2. A perusal of the plaint reveals that the suit has been filed for the relief of declaration that the sale deed and rectification deed executed by D2 and D3 in favour of D1 on 14.09.2018 and other documents as null and void. The plaintiff has further prayed for mandatory injunction, permanent injunction and for other reliefs.

3. The first defendant has filed I.A.No.6 of 2024 to reject the plaint on the ground that the father of the present plaintiff namely, K.S. Rathinam, has already filed O.S.No.394 of 1972 before the District Munsif Court, Tiruchirappalli, for the relief of declaration of title and permanent injunction. The said suit was dismissed. The judgement and decree of the trial Court was



C.R..P.(PD)(MD).No.1049 of 2025

WEB COPY

confirmed in A.S.No.163 of 1975 before the Sub Court, Karur. According to the petitioner, the judgment and decree of the first appellate Court was confirmed by the High Court in S.A.No.1326 of 1977. Therefore, according to him, the present suit is clearly barred under Section 11 of C.P.C.

4. The trial Court, after considering the submissions made on either side has arrived at a finding that the plea of *res judicata* can be considered only at the time of trial and the plaint cannot be rejected invoking Order 7 Rule 11 of C.P.C on the ground of *res judicata*. Challenging the same, the present Civil Revision Petition has been filed.

5. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

6. The Hon'ble Supreme Court judgment reported in **2023 (6) MLJ 392 (SC) Keshav sood Vs.Kiriti Pradeep Sood and others**) has categorically held that the issue of *res judicata* cannot be decided in an application filed under Order 7 Rule 11 of C.P.C. In view of the fact that the issues involved consideration of pleadings in earlier suit, the judgment of the trial Court and



C.R..P.(PD)(MD).No.1049 of 2025

WEB COPY

the judgment of the appellate Court. In view of the categorical finding of the Hon'ble Supreme Court, there are no merits in this Civil Revision Petition.

7. Accordingly, this Civil Revision Petition stands dismissed. However, the defendants are always at liberty to raise the said issues during trial. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

03.04.2025

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

1. The Principal District Munsif,
Kulithalai, Karur.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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C.R..P.(PD)(MD).No.1049 of 2025

R.VIJAYAKUMAR,J.

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C.R.P(PD)(MD)No.1049 of 2025

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