



C.R.P.(MD)No.1781 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.1781 of 2022

and

C.M.P.(MD)Nos.7931 & 11792 of 2023

Ilancheliyan

...Petitioner

Vs.

Suresh

...Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to call for the records of the fair and decreetal order dated 28.06.2022 passed in I.A.No.312 of 2019 in O.S.No.710 of 2016 by the III Additional Sub-Court, Madurai and set aside the same.

For Petitioner : Mr.S.Muthupandi

For Respondent : No Appearance



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ORDER

This petition has been filed seeking to set aside the fair and decreetal order dated 28.06.2022 passed in I.A.No.312 of 2019 in O.S.No.710 of 2016 by the III Additional Sub-Court, Madurai.

2.Learned Counsel for the petitioner would submit that the petitioner is the defendant in O.S.No.710 of 2016 on the file of the III Additional Sub Court, Madurai. The respondent filed a suit for recovery of money. Pending suit, the petitioner filed I.A.No.312 of 2019, for striking the plaint under Order 7 Rule 11 of CPC and the said application was dismissed. Challenging the same, the present Civil Revision Petition has been preferred by the petitioner.

3.Learned Counsel for the petitioner would submit that on the basis of the alleged pro-note, the respondent filed a suit before the trial Court. However, the petitioner claims that the pro-note was not executed by the petitioner. He further submits that the suit is hit by the issue of limitation. The said issue was raised by the petitioner in I.A.No.312 of 2019, however, the trial Court dismissed the said petition. Accordingly, he prays for appropriate orders.



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4.Though notice has been sent to the respondent, there is no representation on behalf of the respondent. Considering the pendency of the case, this Civil Revision Petition is being disposed of, in the absence of the respondent, with the materials available on record.

5.Admittedly, the petitioner is the defendant in a money suit filed by the respondent in O.S.No.710 of 2016 on the file of the III Additional Sub Court, Madurai. Pending suit, the petitioner filed I.A.No.312 of 2019, for striking the plaint under Order 7 Rule 11 of CPC and the said application was dismissed. The petitioner claims that the alleged pro-note was not executed by the petitioner and the suit is hit by limitation. All these issues raised before this Court are triable issues, which are to be tried only at the time of trial and this case does not fall within the purview of Order 7 Rule 11 of CPC. Thereby, the trial Court rightly dismissed the petition, which need not be interfered with.



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6. Accordingly, this Civil Revision Petition is dismissed. However, liberty is given to the petitioner to take all defence in the manner known to law before the trial Court. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

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Internet: Yes/No

Index: Yes/No

MR



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To

- 1.The III Additional Sub-Court,
Madurai
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

MR

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