



CRP(MD). No.3305 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 11/11/2025

CORAM

THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

CRP(MD). No.3305 of 2025
and
CMP(MD)No.18158 of 2025

1. Navaneetham,

2. Rajeshkannan

... Petitioners

Vs

Natarajan

... Respondent

PRAYER :-

Civil Revision Petition filed under Article 227 of The Constitution of India to set aside the order passed in IA No.1 of 2024 in AS No.7 of 2023, dated 22.09.2025 on the file of the Learned Sub Judge, Manapparai.

For Petitioner : Mr. T.A. Ebenezer,
Advocate.

ORDER

This Civil Revision Petition is filed to set aside the order passed in IA No.1 of 2024 in AS No.7 of 2023, dated 22.09.2025 on the file of the Learned Sub Judge, Manapparai.



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2. The present Civil Revision Petition had been filed by the appellants in the appeal suit challenging the order passed by the first appellate Court on an application filed by them under order 7 Rule 11 of CPC to reject the suit. The said application had been dismissed by the Court below on the ground that after the suit had been decided on merits, such an application is not maintainable.

3. The reasons assigned for rejection of the plaint at the appellate stage is a claim that the suit itself is barred under Order 2 Rule 2 of CPC. As rightly held by the Court below, after the suit had been decided on merits, on trial and after hearing both side parties, invocation of Order 7 Rule 11 of CPC at the appellate stage, to reject the plaint cannot be maintainable. The reasons for it, is that in an Order 7 Rule 11 application, only the averments in the plaint would have to be looked into. Having contested the plaint and failed, the defendants have filed the appeal suit, therefore, are not entitled to invoke the powers of the Court under Order 7 Rule 11 of CPC, seeking rejection of the plaint, based upon which, a judgment and decree had also been granted in favour of the plaintiff. The learned counsel for the petitioner had sought



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liberty of this Court to take out an application under Order 41 Rule 33 of CPC, in that regard. Order 41 Rule 33 of CPC clothes the appellate Court, the power to pass any decree and make any order which ought to have been passed or made and pass or make such further or other decrees or order, as the case may require. It is open to the petitioner to move such application, if so advised and if it is for the appellate Court to decide the same on merits and in accordance with law also subject to maintainability.

4. In fine, this Civil Revision Petition fails and it is dismissed accordingly. The liberty as sought for by the petitioner is granted. No costs. Consequently, connected miscellaneous petition stands closed.

11.11.2025

NCC : yes /no
Index : yes / no
Internet : yes / no

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K.KUMARESH BABU, J

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To

1.The Subordinate Judge, Manapparai.

2. The Section Officer, VR Section,
Madurai Bench of Madras High Court,
Madurai.

ORDER
IN

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