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C.R.P.No.1457 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2026

CORAM

THE HONOURABLE Mr. JUSTICE K. RAJASEKAR

Civil Revision Petition No.1457 of 2023
and
Civil Miscellaneous Petition No.9719 of 2023

Sekar

... Petitioner / Defendant

Vs.

M.Durai

... Respondent / Plaintiff

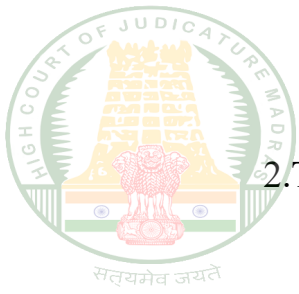
PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, seeking to strike off the plaint in O.S.No.345 of 2022 on the file of the District and Sessions Judge at Chengalpattu.

For Petitioner : Mr.M.Selvam

For Respondent : Mr.I.Abdul Basith

ORDER

This Civil Revision Petition has been filed by the defendant by invoking under Article 227 of the Constitution of India to strike off the plaint in O.S.No.345 of 2022 on the file of the District and Sessions Court, Chengalpattu.

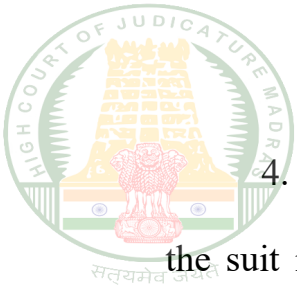


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2.The facts leading to the filing of the present petition are as follows.

The respondent herein is the plaintiff, who has come forward with a suit for Specific performance of the sale agreement dated 10.01.2013 against the defendant, along with consequential reliefs. It is the case of the plaintiff is that he had agreed to purchase the suit schedule property for a total sale consideration of Rs.18,75,000/-, and accordingly, an agreement for sale was entered into on 10.01.2013, after receipt of an advance sale consideration of Rs.10,00,000/-. The balance sale consideration of Rs.8,75,000/- shall be payable at the time of registration of the sale deed. Though the plaintiff was ready and willing to perform his part of contract, the defendant postponed the execution of the sale deed. Since, time is not essence of the contract, the defendant is bound to execute the sale deed. The plaintiff finally demanded performance on 10.09.2020 before filing the suit, but the defendant refused to execute the sale deed and is attempting to sell the suit property. Hence, he has come forward with the suit.

3.After knowing the filing of the suit, the defendant has directly approached this Court by invoking under Article 227 of the Constitution of India, seeking to strike off the plaint.

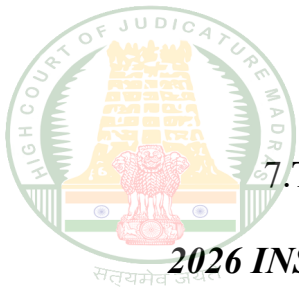


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4. It is submitted by the learned counsel for the petitioner / defendant that the suit itself is barred by limitation and also discloses no cause of action. He further submitted that the plaint was originally filed in the year 2020 and, after being returned, was represented on 15.03.2022. This demonstrates that the suit has been filed with an ulterior motive and amounts to a fraudulent act.

5.The learned counsel for the respondent / plaintiff has also appeared and submitted that there is no fraudulent act as alleged in the petition and that no time limit was fixed for the execution of the sale deed. Hence, immediately after the defendant took steps to sell away the property to third parties, he filed the suit. Therefore, the suit is maintainable. He further submitted that, since the petitioner ought to have resorted to Order VII Rule 11 of the Code of Civil Procedure for rejection of plaint instead of short-circuiting of procedure to avoid the jurisdiction of the Trial Court, this petition has been filed. Hence, he prayed to dismiss the same.

6.I have carefully considered the submissions made by both sides and also perused the materials available on record.



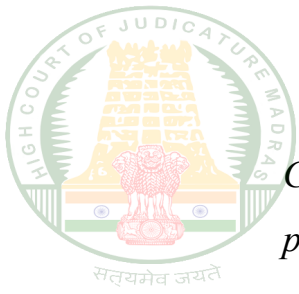
7. The Hon'ble Apex Court recently in ***P.Suresh vs. D.Kalaivani*** reported in

2026 INSC 121 has considered the scope for striking of plaint by invoking Article

227 of the Constitution of India has observed in para No.5, 5.1, 5.1.1 as follows:

*“5. **Article 227** of the Constitution invests the power of superintendence over all courts by the High Court. Sub-Article(1) thereof provides that every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction. As per sub-Article(2), without prejudice to the generality of the provisions in sub-Article (1), the High Court may (a) call for returns from such courts; (b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts and (c) prescribe forms in which the books and accounts etc. to be kept by the officers of courts. As per sub-Article (3), the High Court may also settle tables of fees. Sub-Article (4) provides that nothing in the Article shall deem to confer on a High Court powers of superintendence over any court or tribunal constituted by or under any law relating to the Armed Forces.*

*5.1 The scope, ambit, amplitude and nature of the powers of a High Court under **Article 227** of the Constitution are discussed and delineated by this Court in catena of decisions. **Article 227** is perceived to be a custodian of justice, which is in the nature of extraordinary supervisory powers, discretionary in nature. In ***Shalini Shyam Shetty vs. Rajendra Shankar Patil***, this*



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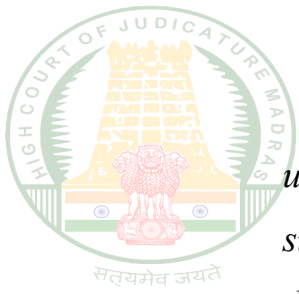
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Court cautioned that an improper and frequent exercise of this power will be counterproductive and would divest this extraordinary power of its strength and vitality. It was observed that this discretionary power has to be exercised very sparingly.

5.1.1 The reserve of exceptional power of judicial intervention is not to be exercised just for granting of relief in individual cases but should be directed for the promotion of public confidence in the administration of justice. It is emphasized that though the power under [Article 227](#) may be unfettered, its exercise is subject to high degree of judicial discipline. The Court observed in [Shalini Shyam Shetty](#) (supra), ‘The power of interference under [Article 227](#) is to be kept to the minimum to ensure that the wheel of justice does not come to halt and the foundation of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court.’

8. After considering various previous Judgments of the Hon’ble Apex Court and also after considering the scope of Order 7 Rule 11 CPC, has further held as follows:

“7. When the powers under [Article 227](#) of the Constitution are of supervisory nature and when the aforestated settled dictum of law is that the High Court does not act as a court of appeal or a court of error, it would logically follow that the powers



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under [Article 227](#) would not be exercised when the non-exercise of such powers does not result into miscarriage of justice or deprivation of remedy in law to a party.

7.1 It is to be conceived as one of the prohibited area for exercising [Article 227](#) powers where, in respect of the grievance for which party has remedy in law, these powers are surely to be invoked. The principle is therefore to be emphasized that the exercise of supervisory jurisdiction under [Article 227](#) of the Constitution has to be treated as an exceptional resort when an alternative efficacious civil remedy by way of appeal or revision or any other, like Order VII Rule 11, [CPC](#) in the present case, is available to the party for the redressal of the grievance.

7.2 The proposition that the availability of alternative remedy shall be legitimately construed to displace the exercise of Constitutional jurisdiction by the High Court, is true not only for the purpose of exercising powers under [Article 226](#) of the Constitution but also for the purpose of invoking [Article 227](#) of the Constitution.

7.3 In the garb of exercising supervisory jurisdiction under [Article 227](#) of the Constitution, the High Court is not expected to engulf the specific statutory remedy or provision in law and, thus, become a supervisor over the court below or the



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tribunal, as the case may be. It would be a legally wise exercise of discretion for the High Court to adopt and adhere to such self-imposed discipline and to insist that the aggrieved party should take recourse to such alternative remedy or statutory provision available in law, especially, for the case falling in category indicated in *Virudhunagar*⁶ (supra) where remedy available in *the CPC* for the cases falling under category/other law also, where such specific statutory remedy is available, the dictum laid down herein is true to grant extent.

7.4 As stated above, embargo in this regard would have to be construed as near total when provision is available in *CPC*. It is held, therefore, that once the specific provision under Order VII Rule 11 of the *CPC*, is available, the High Court cannot exercise powers under Article 227 to reject or strike off the plaint. For such relief, the specific provision under Order VII Rule 11, *CPC*, will have to be resorted to, on the grounds mentioned in the said provision.

8. In adopting such approach, the High Court would be giving due regard to the legislative intent. When the legislature has enacted specific remedial provision to be taken recourse to by the person aggrieved to challenge the orders and decisions of the court to seek redress in law accordingly that remedy alone will have to be sought for.



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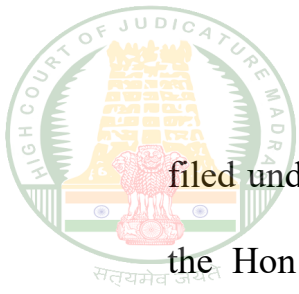


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9. *From the aforesaid discussion, it would logically follow that the High Court would not only discourage but desist from exercising jurisdiction under [Article 227](#) of the Constitution in respect of a challenge for which a separate, distinct, and specific remedy or statutory provision is available under the statute concerned. Availability of an alternative civil remedy and/or under [the CPC](#) shall be treated as complete and near total bar on the High Court to venture to invoke and exercise its power available under [Article 227](#) of the Constitution, except where exercise of supervisory jurisdiction becomes absolutely necessary.*

10. *For all the aforesaid reasons and discussions, this court is of the view that High Court committed a manifest error in exercising its powers under [Article 227](#) of the Constitution to strike down the plaint. It ought to have asked the defendant to take recourse to, in accordance with law, when specific provisions available in [the Code of Civil Procedure, 1908](#) in the nature of Order VII Rule 11. The impugned judgment and order of the High Court, therefore, deserves to be set aside.”*

9. In this case, the contention raised by the petitioner for striking of plaint is based on limitation and lack of cause of action. Since the points of limitation and cause of action can very well be considered by the Trial Court if a petition is



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filed under Order VI Rule 11 of the Code of Civil Procedure and as observed by the Hon'ble Apex Court as a matter of self-imposed discipline, it would be appropriate to direct the petitioner to take recourse to such alternative remedy.

10. Accordingly, this Court is not inclined to exercise its powers under Article 227 of the Constitution of India, and without expressing any opinion on the merits of the matter, the Civil Revision Petition stands dismissed with liberty to the petitioner to approach the Trial Court for availing appropriate remedy. No costs. Consequently, the connected miscellaneous petition stands closed.

25.06.2026

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Index : Yes

Internet : Yes

Neutral Citation Case: Yes/No

To

1. The District and Sessions Judge,
Chengalpattu.



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K.RAJASEKAR, J.

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