2026:MHC:4366

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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 27-10-2026 **Delivered on: 29-10-2026**

CORAM

THE HON'BLE MR JUSTICE N.ANAND VENKATESH

Civil Revision Petition No.1196 of 2022
& CMP.Nos.6364 of 2022 & 6188 of 2023

CNR:{HCMA010209802021}

Case QR

1. Lourde Marie Dhambarane
   S/o.Late Paulin Damabarane
   Rep.by his power agent
   M.R.Ananth, Power Agent
   Residing at No.23, Vanniyar St,
   Vathikuppam, Pondicherry- 605 001.

2. Annibal Nehru
   S/o.Late Annibal Victor,
   Proprietor of Marvel Designs,
   Having regd. office at No. 87,
   Savarirayalu Street,
   Puducherry- 605 001.

...Petitioners

Vs

S.Santhi, W/o.M.A.S.Subramanian,
Residing at No.83, 2nd Main Road,
3rd Cross, Vasan Nagar, Lawspet,
Puducherry- 605 008.

...Respondent

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PETITION under Article 227 of The Constitution of India praying to strike off the plaint filed in O.S.No.756 of 2020 on the file of the Principal District Munsif Court, Pondicherry.

For Petitioners: Mr.T.R.Rajagopalan, SC for Mrs.P.Veena Suresh

For Respondent: Mr.G.Thangavel

ORDER

This civil revision petition has been filed under Article 227 of The Constitution of India seeking to strike off the plaint in O.S.No. 756 of 2020 on the file of the Principal District Munsif Court, Puducherry (for short, the Court below).

2. Heard the learned Senior Counsel appearing on behalf of the petitioners and the learned counsel appearing for the respondent.

3. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record.

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4. The respondent/plaintiff filed the said suit seeking for the relief of permanent injunction restraining the petitioners/defendants from interfering with her peaceful possession and enjoyment of the suit property on the ground that she was the owner of the suit property by virtue of a sale deed dated 27.1.2012 and that the petitioners/defendants were attempting to interfere with her peaceful possession and enjoyment of the suit property.

5. The main grounds that were urged on the side of the petitioners/defendants are as follows:

(a) One Mr.Rolando Joseph was the tenant in the suit property under the father of the first petitioner/first respondent – Mr.Dambrun Paulin. A suit in O.S.No.945 of 1982 came to be filed by the said Mr.Dambrun Paulin before the First Additional District Munsif Court, Puducherry against the tenant seeking for ejectment and it came to be decreed by judgment and decree dated 11.11.1983. The said judgment and decree of the Trial Court dated 11.11.1983 was reversed in A.S.No.25 of 1984 by the First Additional District Court, Puducherry vide judgment dated 22.12.1987. Ultimately, this Court, vide judgment dated 18.8.2000

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in S.A.No.1441 of 1988, set aside the judgment and decree of the First Appellate Court and restored the judgment and decree of the Trial Court. The judgment rendered by this Court in the said second appeal was confirmed by the Hon'ble Apex Court in Civil Appeal No. 5384 of 2001 by order dated 23.11.2005 by granting time for the tenant till 31.8.2006 to vacate and hand over possession of the suit property.

(b) Despite it, the tenant namely the said Mr.Rolando Joseph, along with his wife, executed a registered settlement deed dated 10.8.2001 in favour of their son – one Mr.Rolando Kichor Alibar Ashokan, who, in turn, executed two registered sale deeds, one in favour of the respondent/plaintiff in the present case and another in favour of one Ms.Nithiyadevi. The legal heirs of the said Mr.Dambrun Paulin applied for cancellation of the said settlement deed dated 10.8.2001 and the sale deeds before the District Registrar, Puducherry, who, by order dated 11.12.2015, cancelled the sale deed executed in favour of the respondent/plaintiff.

(c) In the meantime, at the instance of one Mr.Marie Joseph Adrien Dambrun (a) Tambrun, in a land grabbing petition, the Tahsildar, Puducherry, vide proceedings dated 11.2.2014, rendered

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a finding that the document in favour of the respondent/plaintiff and that of the vendor were acts of fraud and that it was a fit case for initiating criminal action apart from taking consequential action pursuant to the decision of the Hon'ble Apex Court dated 23.11.2005. The said order dated 11.2.2014 passed by the Tahsildar, Puducherry was put to challenge by the respondent/ plaintiff by filing W.P.No.5723 of 2014 and it was ultimately dismissed by order dated 05.1.2016.

(d) The relevant portions in the said order dated 05.1.2016 in W.P.No.5723 of 2014 are extracted as hereunder:

> *"4. The learned Additional Government Pleader appearing for respondents 1 to 5 and the learned counsel appearing for the private respondents viz. Respondents 6 to 11, submitted that the order impugned has been passed based upon relevant records. It is not an adjudication of title, but assessment of facts. In pursuant to the order passed by the Apex Court in C.A.No.5384 of 2001, the petitioner does not have any legal right. A fraud would vitiate all solemn acts. The petitioner's very sale deed itself has to be set aside. The writ petition was dismissed for default earlier. It is settled law that once the writ petition is dismissed,*

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consequently, interim order granted would also get extinguished. Resultantly, the private respondents have taken possession. Therefore, there is no need to go through the process before the Civil Court.

5. The facts as narrated speak for themselves. Admittedly, the petitioner's vendor's father through his son namely the vendor of the petitioner, claimed title, who did not have it. He was given time by the Apex Court to vacate. The petitioner's vendor at the time of execution of the sale deed in favour of the petitioner, certainly must have been aware of the said happening. The circumstance, which led to the execution of the document in favour of the petitioner, as seen from the conduct of the said Sakthivel and his counsel, speaks volumes about the facts governing the case. The impugned order cannot be said to be one without jurisdiction. It merely states about the facts surrounding the case. In fact, it is a communication of the third respondent to the second respondent. This Court cannot direct the private respondents to follow a particular method to enforce their rights, especially when it is asserted by the learned counsel that the said respondents have taken possession. Suffice it is to state that this Court is not willing to go into the said issue. As on today, the order

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passed by the District Registrar in DRP.No.45/ 15 dated 11.12.2015 stands against the petitioner though he can challenge it at a later point of time, if he is advised to do so. Thus, looking from any angle, this Court is of the view that it cannot be said that the petitioner is entitled to get the proceedings quashed. Accordingly, the writ petition stands dismissed. It is needless to state that it is well open to the petitioner to work out her remedy if she is of the view that she is dispossessed illegally as the said issue is one for adjudication between private individuals."

(e) The said Ms.Nithiyadevi, in whose favour, another sale deed was executed, challenged the order dated 11.2.2014 passed by the very same Tahsildar, who rendered a finding that she was a land grabber, by filing W.P.No.12168 of 2014 and it was dismissed by this Court by order dated 21.4.2023 after taking into consideration the entire facts and also the proceedings initiated against the respondent/plaintiff.

(f) The relevant portions in the said order dated 21.4.2023 in W.P.No.12168 of 2014 read thus:

"11. More so, the Hon'ble Supreme Court of India has directed the tenant to evict the

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premises on or before 31.08.2006. Almost 16 years lapsed. Till today, the owner of the property is unable to take possession of the same despite the orders of the Hon'ble Supreme Court of India. In this regard, the learned counsel for the private respondents drew the attention of this Court with reference to Order XXI Rule 102, which is extracted herein under:

'102. Rules not applicable to transferee pendente lite.- Nothing in rules 98 and 100 shall apply to resistance or obstruction in execution of a decree for the possession of immovable property by a person to whom the judgment debtor has transferred the property after the institution of the suit in which the decree was passed or to the dispossession of any such person.'

12. In view of the fact that the petitioner has no title over the property nor is the original owner, he is liable to be evicted immediately. No doubt, the original owner fought for long years to establish his title. A suit instituted in the year 1982 came to an end in the year 2005 after a lapse of 23 years. Considering the facts and circumstances, the Apex Court directed the tenants to vacate the subject property on or before 31.08.2006. Even thereafter, petitioners were successful in occupation in the premises illegally under litigious continuance.

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13. If at all the petitioner had been cheated by his vendor, then the petitioner has to initiate all appropriate actions against his own vendor and such action would not affect the right of the original owner, who had already established his right before the Hon'ble Supreme Court of India. The right to claim possession, which was their relief claimed against the father of the petitioner, is unconnected with the eviction to be made against the illegal occupants/petitioner. Thus, the petitioner is not entitled for any relief from the hands of this Court.

14. Considering the fact that the petitioner is in continuous possession despite the orders of the Hon'ble Supreme Court of India, this Court is not inclined to grant any further leniency in evicting the petitioner, since the Hon'ble Supreme Court of India passed an order directing the tenant to vacate the premises on or before 31.08.2006. Accordingly, the petitioner is directed to vacate the premises and handover the vacant possession to the respondents 6 to 11 within a period of one month from the date of receipt of a copy of this order.

15. In the event of not vacating the premises within a period of one month, then, the respondents 1 to 5 are directed to evict the petitioner with the assistance of the Police and

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handover the vacant possession to the respondents 6 to 11 within a period of four weeks thereafter.

16. Accordingly, the writ petition stands dismissed with the liberty to the petitioner to sue his vendor for redressal of his grievances in the manner known to law."

(g) In the meantime, the present suit in O.S.No.756 of 2020 came to be filed by the respondent/plaintiff before the Court below seeking for the relief of permanent injunction restraining the petitioners/defendants from interfering with her peaceful possession and enjoyment of the suit property. Pursuant to that, the above civil revision petition has been filed by the petitioners/defendants seeking to strike the present suit off the Register.

6. The grievance of the petitioners/defendants is that by conveniently concealing all the above facts, the respondent/plaintiff filed the present suit, that it would be an abuse of process of court and that an attempt was made to get over the earlier judgments and decrees passed by the competent civil court and also the orders passed in the earlier writ petitions.

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7. Per contra, the learned counsel for the respondent/plaintiff has relied upon the judgment of the Hon'ble Apex Court in ***P.Suresh Vs. D.Kalaivani [reported in 2026 (7) SCC 644]*** and submitted that this Court could not entertain a petition filed under Article 227 of The Constitution of India to strike off a plaint.

8. In order to appreciate the contentions raised on the side of the respondent/plaintiff, this Court has to take into consideration the said judgment of the Hon'ble Apex Court in ***P.Suresh*** wherein the relevant portions read as follows:

> *"37. 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 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.*
>
> *38. 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*

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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.

39. 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.

40. 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 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 Hindu Nadargal Dharma Paribalana Sabai Vs. Tuticorin

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Educational Society [reported in 2019 (9) SCC 538 : 2019 (4) SCC (Civ) 643] 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."

9. In the said judgment of the Hon'ble Apex Court, it has been made clear that the Courts must resort to exercise of jurisdiction under Article 227 of The Constitution of India only when it becomes absolutely necessary and that availability of alternative remedy under the CPC cannot be displaced by invoking Article 227 of The Constitution of India.

10. In the case in hand, it is a text book case where the tenant in the suit property, in spite of giving an undertaking before the Hon'ble Apex Court to vacate and hand over the premises, managed to create a settlement deed in favour of his son, who, in turn, created two sale deeds, one in favour of the respondent/ plaintiff and another in favour of the said Ms.Nithiyadevi. It is relevant to point out that this Court had dealt with the entire facts in detail while dismissing W.P.No.12168 of 2014 that was filed by the

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said Ms.Nithiyadevi by order dated 21.4.2023 and held that the subsequent purchaser had no right over the property concerned, that she was in illegal occupation of the property concerned, that she indulged in land grabbing and that therefore, she would be liable to be evicted immediately with the assistance of the police. The relevant portions of the said order dated 21.4.2023 have also been extracted supra.

11. The same reasoning will apply to the respondent/plaintiff in the present suit. The respondent/plaintiff, apart from concealing all the earlier proceedings upto the Hon'ble Apex Court and the orders passed in the earlier writ petitions, has indulged in abuse of process of court and used the Court to perpetuate illegality. Strictly speaking, the acts on the part of the original tenant executing a settlement deed in favour of his son and he, in turn, executing two sale deeds in favour of the respondent/plaintiff and the said Ms.Nithiyadevi would amount to contumacious conduct and would tantamount to contempt of court.

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12. What becomes evident is that the owner of the suit property has been made to run from pillar to post till date in spite of succeeding in the earlier round of litigation upto the Hon'ble Apex Court even in the year 2005. In the case in hand, the present suit filed by the respondent/plaintiff is a clear abuse of process of court and a re-litigation, which are not grounds that can be raised under Order VII Rule 11 of the CPC. This is a fit case where this Court has to necessarily exercise its jurisdiction under Article 227 of The Constitution of India in order to prevent further miscarriage of justice and the supervisory jurisdiction has to be necessarily exercised in the present case.

13. An attempt was made on the side of the respondent/ plaintiff as if the property more fully described in the present suit is different from the property, which was the subject matter of the earlier proceedings.

14. In the considered view of this Court, such a claim made by the respondent/plaintiff, on the face of it, is unsustainable.

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15. It is not in dispute that the respondent/plaintiff is claiming a right over the suit property by relying upon the settlement deed that was executed in favour of the tenant's son, who, in turn, executed two sale deeds, one in favour of the respondent/plaintiff and another in favour of the said Ms.Nithiyadevi. If that is so, the claim made by the respondent/plaintiff cannot be against a different property and it is very much the same property, which was the subject matter of the earlier round of litigation.

16. In the light of the above discussions, the above civil revision petition is allowed and the suit in O.S.No.756 of 2020 on the file of the Principal District Munsif Court, Puducherry is struck off the register. No costs. Consequently, the connected CMPs are closed.

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Index: Yes
Speaking Order
Neutral Citation: Yes
To
The Principal District Munsif
Court, Puducherry.

RS

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