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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-08-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

Civil Revision Petition No.4046 of 2022
& CMP.No.20989 of 2022

1. Sunil Bhandari
S/o. Ladamal Bhandari,
No.73, Mahathma Gandhi Road,
Nungambakkam, Chennai-600034.

2. Lakshman Bhandari
S/o. Sunil Bhandari,
No.73, Mahathma Gandhi Road,
Nungambakkam, Chennai-600034.

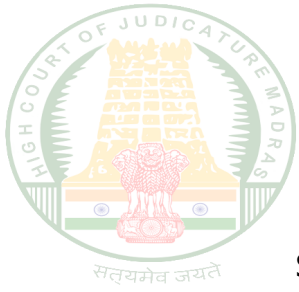
...Petitioners

Vs

1. D.Gopalakrishnan
S/o. Duraikannu,
No.8/86, Perumal Koil
Street, Sithalapakkam,
Chennai-600126.

2. V.Murugesan (**died**)
S/o. Veerapathran,
No.3, Ambedkar Nagar,
3rd Cross Street,
Selaiyur, Chennai-600073.

3. Baby Murugesan
W/o. Murugesan,
No.3, Ambedkar Nagar,
3rd Cross Street,



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Selaiyur, Chennai-600073.

4. M.Govardhanan
S/o. Murugesan,
No.3, Ambedkar Nagar,
3rd Cross Street,
Selaiyur, Chennai-600073.
5. **Logeswari Nethaji**
D/o. Murugesan,
No.3, Ambedkar Nagar,
3rd Cross Street,
Selaiyur, Chennai-600073.
6. **Yamuna Murugesan**
D/o. Murugesan,
No.3, Ambedkar Nagar
3rd Cross Street
Selaiyur, Chennai-600073.
7. **Monica Murugesan**
D/o. Murugesan,
No.3, Ambedkar Nagar
3rd Cross Street,
Selaiyur, Chennai- 600073.
8. **Ganga Murugesan**
D/o. Murugesan,
No.3, Ambedkar Nagar
3rd Cross Street,
Selaiyur, Chennai-600 073.

**(R5 to R8 are brought on record
as the legal representatives of
the deceased R2 vide order of
Court dated 17.8.2026 in
CMP.No.18125 of 2024 by NAVJ)**

...Respondents



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PETITION under Section 115 of the Civil Procedure Code against the the order and decretal order dated 23.9.2022 made in I.A.No.507 of 2021 in O.S.No.15 of 2021 on the file of the District Munsif Court, Tambaram.

For Petitioners:

Mr.G.Vivekanand for
Mr.S.Pothysvaran

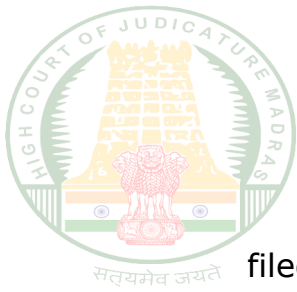
For Respondents:

R1 - served & no appearance
R2 – died
Mr.V.Adithiyan for R3 & R4

ORDER

During the pendency of this revision, the second respondent/first defendant died on 16.6.2024. Respondents 2 and 3, who are his wife and son, are already on record. His other legal heirs are brought on record vide separate order dated 17.8.2026 in CMP.No.18125 of 2024.

2. This civil revision petition has been filed under Section 115 of the Civil Procedure Code (CPC) challenging the fair and decretal order dated 23.9.2022 made in I.A.No.507 of 2021 in O.S.No.15 of 2021 on the file of the District Munsif Court, Tambaram (for short, the Court below) wherein the Court below dismissed the application



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filed by the petitioners under Order VII Rule 11 of the CPC to reject the plaint.

3. The first respondent is the plaintiff. He filed the said suit seeking for the relief of mandatory injunction, declaration and permanent injunction. In the said suit, the petitioners herein, who are none other than defendants 4 and 5, filed the said application under Order VII Rule 11 of the CPC to strike the plaint off the register on the ground that the plaintiff has been seeking to exercise a right as against the other partners belonging to an unregistered firm and that therefore, the suit itself is barred under Section 69(2) of the Indian Partnership Act, 1932. The Court below, by the impugned order, dismissed the said application. Aggrieved by that, the above civil revision petition has been filed before this Court.

4. When the above revision came up for hearing on 13.8.2026, this Court, after hearing the learned counsel for the petitioners and the learned counsel appearing for respondents 3 and 4, passed the following order:



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"This Court heard the learned counsel for the petitioners and the learned counsel appearing on behalf of the respondents 3 and 4 in the Civil Revision Petition.

2. During the hearing, it is brought to the notice of this Court that the 1st respondent/plaintiff by concealing the filing of the earlier suit in O.S.No.15 of 2021, filed the subsequent suit in O.S.No.79 of 2024 with the same pleadings as against defendants 1 to 3 and adding some other parties as defendants 4 to 11.

3. On a plain reading of this plaint filed in O.S.No.79 of 2024, this Court finds that the 1st respondent/plaintiff has attempted to play a fraud on the Court and it is a clear case of abuse of process of law. However, there is no representation on the side of the 1st respondent/plaintiff. Hence, in order to give an opportunity, post this case under the caption 'For Orders' on 17.08.2026."

5. Even when the matter is taken up for hearing today, there is no representation for the first respondent/plaintiff. Hence, this Court has proceeded to hear the learned counsel for the petitioners and the learned counsel for respondents 3 and 4.



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6. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned order.

7. The first respondent/plaintiff filed the said suit on the ground that he paid monies to the deceased second respondent/first defendant to run the real estate business, that the suit property that was purchased was sold by the first defendant on 14.9.2018 in favour of defendants 4 and 5, that subsequently, the first defendant entered into a construction agreement with defendants 4 and 5 and received advance amount, but failed to settle any amount in favour of the plaintiff, that a police complaint was given, that in the police station, signatures were forcibly taken from the plaintiff, that the cheque that was given in favour of the plaintiff, when presented for collection, was returned, that the legal notice that was issued by the plaintiff to the defendants to settle the amount did not evoke any response and that under such circumstances, the plaintiff sought for the relief of mandatory injunction to direct the defendants for rendition of accounts; to declare the undertaking obtained from the plaintiff dated 29.7.2020 as null and void; to declare that the money

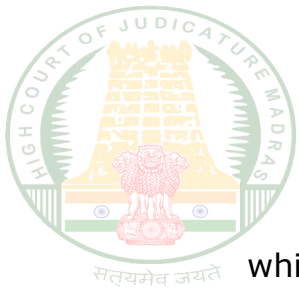


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receipt dated 29.7.2020 obtained from the plaintiff as null and void; for a permanent injunction restraining the defendants from putting up any construction in the suit property till the realization of the amount invested by the plaintiff; and for a permanent injunction restraining the defendants from encumbering or alienating the suit property to any third parties till the realization of the amount invested by the plaintiff.

8. In the said suit, the petitioners – defendants 4 and 5 filed I.A.No.507 of 2021 under Order VII Rule 11 of the CPC mainly on the ground that the entire pleadings would go to show that there has been a dispute among the partners of an unregistered firm and that the petitioners are third parties, against whom, the plaintiff can not proceed further in this suit in view of the bar under Section 69(2) of the Indian Partnership Act, 1932.

9. The Court below did not agree with the grounds raised by the petitioners. The Court below rendered a finding that the capacity of the parties as to whether they were individuals or partners would be a mixed question of fact and that therefore, it is a triable issue,



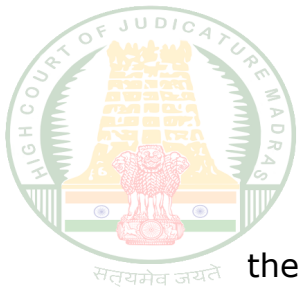
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which can be decided only after a full-fledged trial. Ultimately, the said application came to be dismissed by the Court below by the impugned order.

10. Admittedly, in this case, defendants 1 to 3 are shown as the partners of the firm and defendants 4 and 5 are the subsequent purchasers. There is no material to show that the firm was registered. In view of the same, the plaintiff, who pleads that money was ploughed into a partnership firm, cannot enforce any rights in view of the bar under Section 69(2) of the Indian Partnership Act, 1932. Thus, the plaint is liable to be rejected on that ground.

11. This Court, after hearing the learned counsel for the petitioners and the learned counsel appearing for respondents 3 and 4, found that the issue involved in this case is much larger than the ground that was raised by the petitioners before the Court below. Hence, this Court is inclined to exercise its jurisdiction under Article 227 of The Constitution of India for a different reason.

12. The first respondent/plaintiff filed the said suit mainly on



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the ground that there was a partnership firm by name M/s.M.G.Builders, that he had paid money for the period between 2014 to 2018 to the deceased second respondent/first defendant and that since the accounts were not given properly and the monies due and payable to the first respondent/plaintiff were not paid, the said suit came to be instituted before the Court below.

13. The petitioners/defendants 4 and 5 are third parties and they came into the scene subsequently by virtue of the general power of attorney dated 14.9.2018 and the joint development agreement dated 19.9.2018. Surprisingly, there is not even a single material available to establish that the first respondent/plaintiff had brought in investment as alleged by him except the so-called cheque dated 26.10.2020. It was said to have been issued in favour of the first respondent/plaintiff by the deceased second respondent/first defendant and was also said to have been dishonoured.

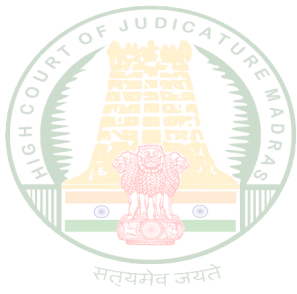
14. Towards the dishonour of the cheque, the first respondent/plaintiff also filed a complaint against the deceased second respondent/first defendant under Section 138 of the Negotiable



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Instruments Act in S.T.C.No.16 of 2021 on the file of the Judicial Magistrate No.1, Tambaram. After the dismissal of the said application before the Court below, the petitioners filed the above civil revision petition before this Court. Further, while entertaining the above revision, this Court, by order dated 02.12.2022, stayed all further proceedings in the said suit.

15. What the first respondent/plaintiff did thereafter is the starting point of a clear abuse of process of law that was adopted by him. The first respondent/plaintiff proceeded to file another suit in O.S.No.79 of 2024 on the file of the District Munsif Court, Chengalpattu against the deceased second respondent/first defendant and 10 others seeking for the relief of declaration to declare the release deed dated 09.7.2019, the sale deeds dated 26.7.2023, 02.8.2023, 28.11.2023, 28.11.2023 and 06.1.2024 as null and void and for a permanent injunction restraining the defendants therein from encumbering or alienating the suit property to any third parties till realization of the amount invested by the first respondent/plaintiff.



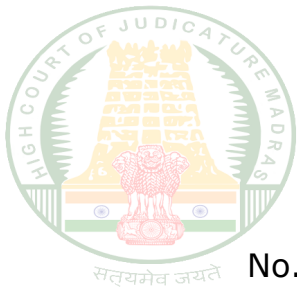
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16. A copy of the plaint that was filed in O.S.No.79 of 2024 on the file of the District Munsif Court, Chengalpattu is also placed before this Court. On carefully going through the same, surprisingly, it is seen that the averments made in the earlier plaint filed in O.S.No.15 of 2021 and the present plaint in O.S.No.79 of 2024 are almost similar.

17. For proper appreciation, the identical paragraphs in both the suits are tabulated as hereunder for easy understanding :

S.No.	Averments in O.S.No.15 of 2021 before the District Munsif Court at Tambaram	Averments in O.S.No.79 of 2024 before the District Munsif Court at Chengalpattu
1	Para No.2	Para No.2
2	Para No.3	Para No.3
3	Para No.4	Para No.4
4	Para No.5	Para No.5
5	Para No.6	Para No.6
6	Para No.7	Para No.7 & 8
7	Para No.9	Para No.9
8	Para No.10	Para No.10
9	Para No.11	Para Nos.11 & 12
10	Para No.13	Para No.13
11	Para No.14	Para No.17

18. This Court finds that the first respondent/plaintiff understood that he could no longer prosecute the earlier suit in O.S.



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No.15 of 2021 and therefore, has now filed a fresh suit in O.S.No. 79 of 2024 containing similar averments without even mentioning the details of the earlier suit anywhere in the averments in the plaint in O.S.No.79 of 2024 except filing a copy of the plaint in O.S.No.15 of 2021 as one of the documents.

19. At this juncture, this Court is reminded of the judgment of the Hon'ble Apex Court in ***T.Arivanandam Vs. T.V.Satyapal*** [reported in 1977 (4) SCC 467] wherein the relevant portions read thus:

"4. The next chapter in the litigative acrobatics of the petitioner and father soon followed since they were determined to dupe and defy the process of the court to cling on to the shop. The trick they adopted was to institute another suit before another Munsif making a carbon copy as it were of the old plaint and playing upon the likely gullibility of the new Munsif to grant an ex parte injunction. The 1st respondent entered appearance and expose the, hoax played upon the court by the petitioner and the 2nd respondent. Thereupon the Munsif vacated the order of injunction he had already granted. As appeal was carried without success.



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Undaunted by all these defeats the petitioner came to the High Court in revision and managed to get an injunction over again. The 1st respondent promptly applied for vacating the temporary injunction and when the petition came up for hearing before Mr. justice Venkataramayya, counsel for the petitioner submitted that he should not hear the case, the pretext put forward being that the petitioner had cutely mentioned the name of the judge in the affidavit while describing the prior proceedings. The unhappy Judge, who had done all he could to help the tenant by persuading the landlord, found himself badly betrayed. He adjourned the case to the next day. The torment he underwent is obvious from his own order where he stated:

'I spent a sleepless night yesterday.' Luckily, he stabilised himself the next day and heard arguments without yielding to the bullying tactics of the petitioner and impropriety of his advocate. He went into the merits and dismissed the revision. Of course, these fruitless proceedings in the High Court did not deter the petitioner from daring to move this Court for special leave to appeal.

5. We have not the slightest hesitation in condemning the petitioner for the gross abuse of the process of the court repeatedly and unrepentently resorted to. From the statement



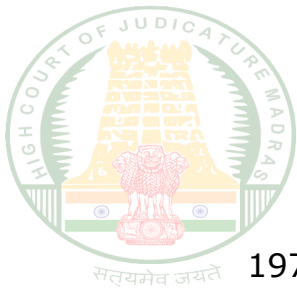
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of the facts found in the judgment of the High Court, it is perfectly plain that the suit now, pending before the First Munsif's Court, Bangalore, is a flagrant misuse of the mercies of the law in receiving complaints. The learned Munsif must remember that if on a meaningful-not formal-reading of the complaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under Order VII Rule 11 CPC taking care to see that the ground mentioned therein is fulfilled. And, if clever, drafting has created the illusion of a cause of action, nip it in the bud at the first hearing by examining the party searchingly under Order X C.P.C. An activist Judge is the answer to irresponsible law suits. The trial court should insist imperatively on examining the party at the first bearing so that bogus litigation can be shot down at the earliest stage. The Penal Code (Ch. XI) is also resourceful enough to meet such men, and must be triggered against them. In this case, the learned Judge to his cost realised what George Bernard Shaw remarked on the assassination of Mahatma Gandhi

'It is dangerous to be too good'."

20. What was lamented by the Hon'ble Apex Court in the year

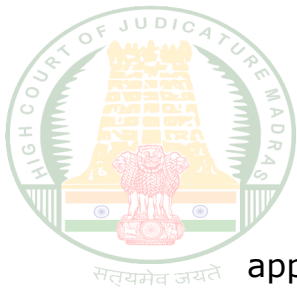


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1977 regarding the manifestly vexatious and meritless litigations instituted, continues even now and there are many litigations, which are, on the face of it, a clear abuse of process of law.

21. In the instant case, it is quite surprising that even the cause of action in both the suits is almost identical except referring to the filing O.S.No.15 of 2021 on the file of the District Munsif Court, Tambaram and the criminal case in S.T.C.No.16 of 2021 on the file of the Judicial Magistrate No.1, Tambaram as additional facts in the cause of action paragraph in O.S.No.79 of 2024 on the file of the District Munsif Court, Chengalpttu.

22. The fact that none appears on behalf of the first respondent/plaintiff in spite of giving an opportunity would only show that the first respondent is aware regarding the consequence in further prosecuting both the suits. It is even more worrying that the same counsel, who drafted the plaint in O.S.No.15 of 2021, is the one, who drafted the plaint in O.S.No.79 of 2024 and he has also entered appearance for the first respondent/plaintiff in the above civil revision petition. Hence, the counsel is consciously not



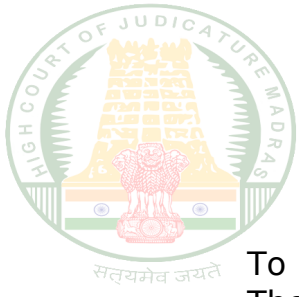
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appearing before this Court during both the hearings.

23. If a case of this nature is not nipped in the bud, as was held by the Hon'ble Apex Court in the decision in ***T.Arivanandham***, it will only perpetuate further illegality by putting the petitioners and respondents 3 and 4 to further harassment. This is a text book case where the abuse of process of law is overwhelming and if this Court does not exercise its jurisdiction under Article 227 of The Constitution of India in a case of this nature, there will be no other better case where it can be exercised. In the light of the above discussions, this Court, in exercise of its jurisdiction under Article 227 of The Constitution of India, is inclined to strike off the suit in O.S.No.15 of 2021 on the file of the District Munsif Court, Tambaram.

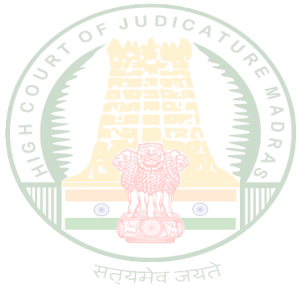
24. Accordingly, the above civil revision petition is allowed and the suit in O.S.No.15 of 2021 on the file of the District Munsif Court, Tambaram is struck off the register. No costs. Consequently, the connected CMP is closed.

17-08-2026



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The District Munsif Court,
Tambaram.

RS



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Case Citation: (2026) ibclaw.in 4803 HC



CRP.No.4046 of 2022

N.ANAND VENKATESH,J

RS

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CMP.No.20989 of 2022**

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