

(2006) 06 MAD CK 0137

In the Madras High Court

Case No : Civil Revision Petition (PD) No. 464 of 2006 and C.M.P. No. 3962 of 2006

Manikandan

APPELLANT

Vs

N.V. Sunil Kumar

RESPONDENT

Date of Decision : 14-06-2006

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 7 Rule 11

Citation : (2006) 06 MAD CK 0137

Hon'ble Judges : P. Sathasivam, J

Bench : Single Bench

Advocate : N. Damodaran, for the Appellant; P.T. Asha, caveator for Sarvabhuman Associates, for the Respondent

Final Decision : Dismissed

Judgement

P. Sathasivam, J.—The civil revision petition is directed against the order dated 22.07.2005 made in I.A. No. 3 of 2005 in O.S. No. 943 of

2004 on the file of First Additional District Judge, Coimbatore, in and by which the learned Judge dismissed the said application as well as another

connected application, viz., I.A. No. 2 of 2005.

2. Third defendant in the said suit filed I.A. No. 3 of 2005 before the Court below praying for rejection of the Plaint. It is further seen that the other

defendants, viz., D.1 and D.2 filed I.A. No. 2 of 2005 for the same relief. The learned District Judge, after going through various averments in the

Plaint as well as the defence taken in the written statement and in view of the statutory provision, viz., Order 7 Rule 11 (d) of Code of Civil

Procedure, found that the defendants have not made out a case for rejection of Plaint at this stage, dismissed both the petitions. Aggrieved by the

said order, the third respondent alone filed the present revision.

3. Heard the learned Counsel for the petitioner.

4. In view of the stand taken by the third defendant/petitioner herein, I verified various averments made in the Plaint and the reliefs sought for

therein as well as the defence taken in the written statement. After perusal of the same and the reasoning of the learned Judge, I am of the view that

the objection raised by the petitioner cannot be gone into by this Court at this stage without proper evidence in the form of oral and documentary.

It is not in dispute that the petitioner-third defendant is free to raise all his objections, including the objection raised in the I.A., at the time of trial.

Since as observed earlier it requires more materials in the form of evidence, I agree with the conclusion arrived at by the learned Judge and I do

not find any error or infirmity in the impugned order under challenge. Accordingly, the civil revision petition fails and the same is dismissed. No

costs. Consequently, connected CMP., is also dismissed.