

C.R.P. (Pd) No. 570 of 2013

R. Gopalakrishnan v. K. Mani

2019 SCC OnLine Mad 282 : (2019) 2 CTC 257 : (2019) 2 MWN (Civil) 199

In the High Court of Madras
(BEFORE ABDUL QUDDHOSE, J.)

R. Gopalakrishnan and Others Petitioners;

v.

K. Mani Respondent.

C.R.P. (Pd) No. 570 of 2013 and M.P. No. 1 of 2013

Decided on January 23, 2019, [Reserved on: 08.01.2019]

Advocates who appeared in this case :

For petitioners: Mr. C. Deivasigamani

For Respondent: Mr. C.R. Prasanan

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order passed in C.M.A. No. 72 of 2011 dated 27-06-2012 on the file of the 1st Addl. District Judge of Coimbatore confirming the order passed in I.A. No. 343 of 2010 in O.S. No. 440 of 2010 dated 06-07-2011 on the file of the II Addl. Subordinate Judge of Coimbatore.

The Order of the Court was delivered by

ABDUL QUDDHOSE, J.:— The instant revision is a classic example as to how an unscrupulous litigant has grossly abused the process of Court to deprive his opponent to enjoy the fruits of a decree for possession which has reached finality. Public will lose faith in the judiciary if there is no finality in litigation and a party is allowed to re-agitate and re-litigate a matter even after the earlier litigation on the same subject matter has reached a finality by the decision of the highest Court between the same parties. The practice of re-litigating and re-agitating the dispute even after the adjudication of the dispute has reached finality by the decision of the highest Court must be nipped in the bud and the Courts must be stringent and ruthless while dealing with such kind of frivolous and vexatious litigations abusing the process of Courts and the judicial system.

2. The instant revision has been filed under Article 227 of the Constitution of India, challenging the order dated 27.06.2012, passed in C.M.A. No. 72 of 2011 by the I Additional District Judge, Coimbatore, confirming the order dated 06.07.2011, passed in I.A. No. 343 of 2010 in O.S. No. 440 of 2010 by the II Additional Subordinate Judge of Coimbatore.

3. Brief facts leading to the filing of the instant revision:

(i) The petitioners are the plaintiffs in the suit O.S. No. 756 of 2007 on the file of the District Judge at Coimbatore, which was renumbered as O.S. No. 440 of 2010. The respondent is the first defendant in the suit in O.S. No. 440 of 2010. The suit was filed by the petitioners seeking the following reliefs:

(a) To declare the right and title bequeathed in favour of the respondent in the Will dated 16.01.1979 executed by Ramakkal has been extinguished.

(b) To cancel the judgment and decree dated 29.03.1983 in O.S. No. 575 of 1980 on the file of the District Munsif Court, Coimbatore as null and void.

(c) To cancel the judgment and decree in O.S. No. 153 of 2004 dated 28.01.2005 on the file of the Subordinate Judge, Coimbatore as null and void.

(d) For partition of the suit property into 32 equal shares by metes and bounds, allotting and handing over the possession of 9 sets shares to the petitioners by appointing a Commissioner.

4. The case of the petitioners in the plaint filed in O.S. No. 440 of 2010 is that they are the sons and daughters of K. Rangasamy Konar, who was originally the first plaintiff in the suit who died during the pendency of the suit. The respondent, who is the first defendant in the suit is the brother of Rangasamy Konar. The petitioners have admitted the execution of Will dated 16.01.1979 by Ramakkal, the mother of Rangasamy Konar in favour of her another son K. Mani, the respondent herein bequeathing the suit property. But, it is their case that it is a conditional Will, as Ramakkal in her Will has laid a condition that the legatee must pay the debts incurred by her. According to the petitioners, the respondent has not complied with the conditions imposed in the Will and therefore, the right and title bequeathed by Ramakkal in favour of the respondent/first defendant in the Will dated 16.01.1979 has to be extinguished. They also admit that another suit O.S. No. 575 of 1980 filed by K. Rangasamy Konar, the petitioners father for partition in respect of the suit property was dismissed on the ground that there is a Will in favour of the respondent/first defendant. They also admit that the First Appeal in A.S. No. 249 of 1993 on the file of the Principal District Judge, Coimbatore has been dismissed. They also admit that the Second Appeal S.A. No. 647 of 1987 on the file of this Court has also been dismissed. But, according to them, they have not raised the issue of non-compliance of the condition attached in the Will and therefore, the present suit O.S. No. 440 of 2010 is not barred by *res judicata* or by limitation.

5. The petitioners also admit that the respondent filed a suit against the petitioners in O.S. No. 153 of 2004 on the file of the Subordinate Judge, Coimbatore, seeking possession of the suit schedule property based on the judgment and decree passed in the earlier suit for partition filed by Rangasamy Konar in O.S. No. 575 of 1980. They also admit that the said suit O.S. No. 153 of 2004 filed by the respondent for possession came to be decreed in favour of the respondent. As against the judgment and decree passed in favour of the respondent in O.S. No. 153 of 2004, First Appeal was also filed by the petitioners in A.S. No. 131 of 2005 which was also dismissed and subsequently, the Second Appeal namely S.A. No. 1166 of 2006 was also filed before this Court, which also came to be dismissed. In the plaint filed by the petitioners in O.S. No. 440 of 2010, they have also stated that the respondent has filed an execution petition in E.P. No. 127 of 2005 on the file of the Sub Court, Coimbatore, to execute the decree passed in O.S. No. 153 of 2004 and the said execution petition has also been allowed. They have also stated that 18th defendant in O.S. No. 153 of 2004 filed an objection petition in E.A. No. 155 of 2007 claiming to have an assignment in his favour and E.A. No. 155 of 2007 was also dismissed and an appeal in C.M.A. No. 60 of 2007 on the file of the I Additional District Judge, Coimbatore was filed and is pending. Based on the aforementioned averments, the suit O.S. No. 440 of 2010 was filed by the petitioners.

6. It is the case of the respondent, who is the defendant in the suit that the suit O.S. No. 440 of 2010 is a false, frivolous and vexatious suit. According to the respondent, the suit is not maintainable and is an abuse of process of law. The suit filed by Rangasamy Konar in O.S. No. 575 of 1980 was dismissed on 26.03.1983. The appeal in A.S. No. 241 of 1983 was dismissed on 05.12.1984. The Second Appeal No. 647 of 1987 was dismissed on 26.02.2001. Similarly, the suit in O.S. No. 153 of 2004 filed by the respondent for recovery of possession had been decreed on 28.01.2005 against Rangasamy Konar and the revision petitioners herein. The First Appeal in A.S. No. 131 of 2005 filed by Rangasamy Konar and the revision petitioners 1 to 3 has also been dismissed on 27.08.2006. Subsequently, the Second Appeal S.A. No. 1166 of

2006 has also been dismissed on 08.10.2006 by this Court. According to the first respondent, definite findings have been given in all the above judgments upholding the Will executed by Ramakkal in his favour and therefore, it is not open to the revision petitioners to re-agitate and re-litigate the matter, which is an abuse of process of law.

7. During the pendency of the suit O.S. No. 440 of 2010, I.A. No. 343 of 2010 was filed by the petitioners, seeking for the grant of an ad interim injunction restraining the respondent/first defendant from proceeding further, based on the judgment and decree obtained on 28.01.2005 in O.S. No. 153 of 2004 on the file of the Principal Subordinate Judge, Coimbatore. A counter was filed by the respondent/first defendant reiterating the facts submitted in his written statement and once again submitting that the suit as well as the application filed by the petitioners is false, frivolous and vexatious and is an abuse of process of law. The Trial Court by its order dated 06.11.2011 dismissed the said application in I.A. No. 343 of 2010 in O.S. No. 440 of 2010 with cost of Rs. 2,000/- observing that the said application is a clear abuse of process of law and devoid of merits.

8. Aggrieved by the dismissal of I.A. No. 343 of 2010 dated 06.07.2011 in O.S. No. 440 of 2010, the petitioners have preferred an appeal before the I Additional District Judge, Coimbatore, in C.M.A. No. 72 of 2011. The said appeal was also dismissed confirming the order of the II Additional Subordinate Judge dated 06.07.2011 passed in I.A. No. 343 of 2010 in O.S. No. 440 of 2010.

9. Aggrieved by the dismissal of C.M.A. No. 72 of 2011, the instant revision has been filed.

Submission of the learned Counsels:

10. Heard Mr. C. Deivasigamani, learned Counsel for the petitioners and Mr. C.R. Prasanan, learned Counsel for the respondent.

11. According to the learned Counsel for the petitioners, the Will dated 16.01.1979 executed by Ramakkal in favour of the respondent is a conditional Will. According to him, as per the conditional Will, the respondent legatee must pay the debts incurred by the testator. According to the learned Counsel for the petitioners, the respondent has not complied with the conditions imposed in the Will and therefore, the right and title bequeathed by Ramakkal in favour of the respondent/first defendant in the Will dated 16.01.1979 has to be extinguished. According to the learned Counsel for the petitioners, the petitioners have not raised the issue of non-compliance of the condition attached in the Will dated 16.01.1979 in the earlier suits O.S. No. 575 of 1980 on the file of the District Munsif Court, Coimbatore and O.S. No. 153 of 2004 on the file of the Subordinate Judge, Coimbatore and therefore, according to him, the instant suit O.S. No. 440 of 2010 seeking: (a) to declare that the Will dated 16.01.1979 has been extinguished, (b) to cancel the judgment and decree in O.S. No. 575 of 1980, (c) to cancel the judgment and decree in O.S. No. 153 of 2004 dated 28.01.2005 and (d) for partition of suit property into 32 equal shares by metes and bounds, allotting and handing over the possession of 9 sets shares to the petitioners by appointing a Commissioner, is perfectly a valid suit.

12. Further, the learned Counsel for the petitioners would contend that the petitioners are admittedly in possession of the suit schedule property, as seen from the plaint filed by the respondent for possession in O.S. No. 153 of 2004 on the file of the Subordinate Judge, Coimbatore.

13. According to the learned Counsel for the petitioners, the Trial Court as well as the First Appellate Court has erroneously held that the suit filed by the petitioners is a vexatious suit and is an abuse of process of Court.

14. According to the learned Counsel for the petitioners, the respondent has played fraud upon the Court by suppressing the material fact that he has never fulfilled the

obligations under the Will dated 16.01.1979 executed by his mother in his favour by discharging her debts. Therefore, according to him, when a fraud has been perpetrated on the petitioners by the respondent by suppressing material facts before the Court, a suit can be filed to declare a decree obtained by the respondent by playing fraud upon the Court as null and void. Further, he would contend that in the case on hand, the petitioners have made out a *prima facie* case for grant of an injunction since it is an admitted fact that the petitioners are in possession of the suit schedule property. According to him, the petitioners have satisfied the mandatory requirements namely *prima facie* case, balance of convenience and irreparable injury for the grant of an injunction. But, according to him, the Trial Court has erroneously not duly considered the same and has rejected the injunction application.

15. The learned Counsel for the petitioners cited the following authorities:

(a) *H.M. Kari Gowder v. H.M. Halan* reported in 1995 (II) CTC 89.

(b) *K. Mariappan v. Chennaivazh Nadargal Sangam* reported in 1996 (1) CTC 148.

(c) *Parmatma Prasad v. Mt. Sampatti* reported in AIR 1968 Allahabad 184.

(d) *Narayandas S. Kanuga v. Sarasvatibai D. Joshi* reported in AIR 1968 BOMBAY 280.

16. Per contra, the learned Counsel for the respondent would submit that the litigation instituted by the petitioners in O.S. No. 440 of 2010 is an abuse of process of law. According to him, it is a third round of litigation.

17. He drew the attention of this Court to a partition suit filed by the father of the revision petitioners namely Rangasamy Konar in O.S. No. 575 of 1980 before the Principal District Munsif Court, Coimbatore, against the respondent which was dismissed on 26.03.1983 and the appeal against the judgment and decree in O.S. No. 575 of 1980 which was dismissed on 05.12.1984 in A.S. No. 241 of 1983 and the Second Appeal against the dismissal of A.S. No. 241 of 1983 was also dismissed on 26.06.2001 by this Court.

18. He submitted that this Court by its judgment dated 26.06.2001 in S.A. No. 647 of 1987 has confirmed the findings rendered by the Lower Appellate Court and the Trial Court that the Will dated 16.01.1979 in favour of the respondent had been executed validly.

19. He also drew the attention of this Court to a judgment and decree dated 28.01.2005 in O.S. No. 153 of 2004 filed by the respondent for recovery of possession against the petitioners and their father Rangasamy Konar which was decreed in his favour and the appeal filed by the petitioners in A.S. No. 131 of 2005 against the judgment and decree dated 28.01.2005 in O.S. No. 153 of 2004 was dismissed on 27.08.2006, confirming the judgment and decree for delivery of possession. The Second Appeal, namely S.A. No. 1166 of 2006 filed against the dismissal of A.S. No. 131 of 2005 was also dismissed by this Court on 08.10.2006. According to the learned Counsel for the respondent, pursuant to the decree for recovery of possession which reached finality as confirmed by this Court in S.A. No. 1166 of 2006, the decree was put in execution in E.P. No. 127 of 2005 by the respondent. On 08.11.2006, delivery of possession was ordered in E.P. No. 127 of 2005. After delivery was ordered, according to the learned Counsel for the respondent, the revision petitioners have set up the son-in-law of the deceased father Rangasamy Konar namely K. Natarajan to file an application in E.A. No. 155 of 2007 under Order 21 Rule 97 of CPC to obstruct the execution of the decree. E.A. No. 155 of 2007 was dismissed on 12.04.2007. The appeal in A.S. No. 60 of 2007 was also dismissed on 15.11.2007. According to the learned Counsel for the respondent, at this stage, on 29.09.2007, the present suit O.S. No. 756 of 2007 renumbered as O.S. No. 440 of 2010 was filed which is a clear abuse of process of Court and is a vexatious litigation. According to the learned Counsel for the respondent, the Trial Court as well as the Lower Appellate Court has rightly

rejected the injunction application filed by the petitioners and has held that the suit filed by the petitioners is an abuse of process of Court.

20. The learned Counsel for the respondent drew the attention of this Court to the following authorities:

- (a) *Mani alias Nagamani v. P. Ramakrishnan* reported in 2018 (2) MWN (Civil) 172, wherein a learned Single Judge of this Court has held that this Court has got the power under Article 227 of the Constitution of India to strike off a frivolous suit when the suit amounts to re-litigation.
- (b) *K.K. Swaminathan v. Srinivasagam* reported in 2003 (4) CTC 347 wherein this Court held that when no actual positive evidence has been established that fraud has been played upon the Court, a decree obtained in an earlier suit cannot be declared as null and void. The same decision has also held that the Court has got the power under Article 227 of the Constitution of India to strike off a plaint in case of miscarriage of justice.
- (c) *Ramrameshwari Devi v. Nirmala Devi* reported in (2011) 8 SCC 249 wherein the Hon'ble Supreme Court held that wrong doers should not get benefit out of frivolous litigation and exemplary cost will have to be ordered to a party who has initiated a frivolous and vexatious litigation amounting to abuse of process of Court.

Discussion:

21. The instant revision challenges the refusal of the Trial Court as well as the Lower Appellate Court at an interlocutory stage to grant an order of injunction restraining the respondent from proceeding further based on the judgment and decree dated 28.01.2005 in O.S. No. 153 of 2004 on the file of the Principal Subordinate Judge, Coimbatore. The petitioners father Rangasamy Konar filed O.S. No. 575 of 1980 for partition against the respondent who is his brother. O.S. No. 153 of 2004 was filed by the respondent seeking delivery of possession of the suit schedule property. Both the suits have admittedly reached finality as the judgment and decree passed in both the suits have been confirmed by this Court in Second Appeal in S.A. No. 647 of 1987 and S.A. No. 1166 of 2006 respectively. In both the suits, the subject Will dated 16.01.1979 executed by Ramakkal in favour of the respondent was under challenge and the hierarchy of Courts up to the High Court have held that the Will dated 16.01.1979 in favour of the respondent had been validly executed. Despite the finality of the litigation between the petitioners and the respondent, the petitioners have once again ventured to file another fresh suit namely O.S. No. 756 of 2007 renumbered as O.S. No. 440 of 2010 on the file of the II Additional Subordinate Judge, Coimbatore for the following reliefs:

- (a) To declare the right and title bequeathed in favour of the respondent in the Will dated 16.01.1979 executed by Ramakkal has been extinguished.
- (b) To cancel the judgment and decree dated 29.03.1983 in O.S. No. 575 of 1980 on the file of the District Munsif Court, Coimbatore as null and void.
- (c) To cancel the judgment and decree in O.S. No. 153 of 2004 dated 28.01.2005 on the file of the Subordinate Judge, Coimbatore as null and void.
- (d) For partition of the suit property into 32 equal shares by metes and bounds, allotting and handing over the possession of 9 sets shares to the petitioners by appointing a Commissioner.

22. It is the case of the petitioners that the Will dated 16.01.1979 executed by Ramakkal in favour of the respondent is a conditional Will as Ramakkal has laid a condition that the legatee, the respondent herein must pay the debts incurred by her. According to the petitioners, since the respondent did not comply with the condition imposed under the Will, the Will has to be extinguished and the judgment and decree passed in the suits O.S. No. 575 of 1980 and O.S. No. 153 of 2004 have to be

cancelled and declared as null and void. Further, it is their case that they have not raised the issue of non-compliance of the condition attached to the Will and therefore, the fresh suit namely, O.S. No. 756 of 2007 renumbered as O.S. No. 440 of 2010 filed by them is not barred by *res judicata* or by limitation. It is also their case that admittedly they are in possession of the suit schedule property and having satisfied the requirements for the grant of an order of injunction namely (a) *Prima facie* case (b) Balance of convenience (c) Irreparable injury, the Trial Court as well as the Lower Appellate Court have erred in refusing to grant an order of injunction in their favour.

23. The Trial Court, Lower Appellate Court and the High Court have confirmed that the Will dated 16.01.1979 executed by Ramakkal in favour of the respondent is a validly executed Will. Against the decision of the High Court in the Second Appeal, no appeal was filed by the petitioners to the Hon'ble Supreme Court and the litigation reached a finality and the Courts rejected the relief of partition sought by the petitioners father Rangasamy Konar. Only after the Courts concurrently and conclusively held that the petitioners are not entitled for partition and the litigation reached a finality, the respondent filed a suit O.S. No. 153 of 2004 on the file of the Principal Subordinate Judge, Coimbatore for possession of the suit schedule property. The Trial Court decreed the suit O.S. No. 153 of 2004 in favour of the respondent, which was confirmed both by the Lower Appellate Court and the High Court in S.A. No. 1166 of 2006. Admittedly, no appeal has been filed by the petitioners against the judgment passed by this Court in S.A. No. 1166 of 2006 and the decree for possession has become final and binding on the petitioners. A decree for possession was also put in execution in E.P. No. 127 of 2005 by the respondent. On 08.11.2006, delivery of possession was ordered in favour of the respondent in E.P. No. 127 of 2005. After delivery of possession was ordered, E.A. No. 155 of 2007 under Order 21 Rule 97 of CPC was filed by one K. Natarajan to obstruct the execution of the decree. According to the respondent, the petitioners have illegally set up their son-in-law K. Natarajan to file E.A. No. 155 of 2007. E.A. No. 155 of 2007 was dismissed on 12.04.2007 and the appeal against the dismissal of E.A. No. 155 of 2007 in A.S. No. 60 of 2007 was also dismissed on 15.11.2007.

24. The fresh suit O.S. No. 756 of 2007 renumbered as OS No. 440 of 2010 has been filed by the petitioners after the litigation between the same parties reached a finality on the confirmation of the judgment and decree passed in O.S. No. 575 of 1980 and O.S. No. 153 of 2004 by the hierarchy of Courts. The issue regarding the alleged non-compliance of the condition imposed under the Will dated 16.01.1979 could have been very well raised by the petitioners in the earlier suits between the same parties, but it is undoubtedly clear that the petitioners having lost in both the earlier litigations which has reached a finality have chosen to file a fresh suit which is a frivolous and vexatious suit and amounts to clear abuse of process of Court. The conduct of the petitioners in disputing the existence of the Will dated 16.01.1979 in no uncertain terms in the earlier suits O.S. No. 575 of 1980 and O.S. No. 153 of 2004 but now pleading that the Will existed but is a conditional Will, clearly proves the contumacious conduct of the petitioners. The act of the petitioners to file a fresh suit clearly amounts to *res judicata* as the petitioners have re-agitated and re-litigated when the subject matter of the dispute has already been finally decided by the hierarchy of Courts in the earlier suits namely O.S. No. 575 of 1980 and O.S. No. 153 of 2004. The petitioners also do not have any iota of evidence as seen from the records as well as the judgments passed by the Courts in the earlier rounds of litigations between the same parties to prove that the respondent has played fraud upon the petitioners. Even assuming, the respondent has not complied with the condition to pay the debts of the testator of the Will, no amount of imagination will ever lead to the conclusion that the respondent has played fraud upon the petitioners. Despite the Trial Court as well as the Lower Appellate Court that too in an interlocutory application has

concurrently given a categorical finding that the petitioners have abused the process of Court, the petitioners have continued with their rampant abuse of Courts by filing a revision before this Court against the concurrent findings of both the Courts below. If these kinds of frivolous and vexatious litigations are entertained by Courts, public will lose faith in the judiciary. In order to prevent such frivolous and vexatious litigations, it is the bounden duty of the Courts to nip it in the bud at the threshold itself instead of waiting for the final decision in the suit. The Courts cannot be a mute spectator when such kind of frivolous and vexatious litigations are filed.

25. Abuse of process of Courts is a cause of action in tort arising from blatant misuse of Court process. The elements of abuse of process are: (a) the existence of an ulterior purpose or motive underlying the use of process (b) some act in the use of the legal process not proper in the regular prosecution of the proceedings. In the instant case when the Courts in the earlier round of litigation between the same parties have conclusively held that the Will dated 16.01.1979 to be genuine and the issues raised in the fresh suit could have been agitated by the petitioners in the earlier suits, it can be conclusively held that only with the ulterior motive of unlawfully denying the fruits of the decree passed in favour of the respondent in O.S. No. 153 of 2004, the petitioners have committed abuse of process of Court by filing a fresh suit for the same dispute which has already been adjudicated and reached finality in the earlier suits O.S. No. 575 of 1980 and O.S. No. 153 of 2004. The suit instituted by the petitioners in O.S. No. 440 of 2010 is a frivolous and a vexatious suit as the petitioners have abused the judicial process by filing a fresh suit when the same dispute has already been adjudicated in the earlier suits between the same parties. The suit filed by the petitioners is a clear case of *res judicata*. It has caused injustice to the respondent who has successfully established before the Courts that the Will dated 16.01.1979 is a genuine and valid Will.

26. The Judgments relied upon by the learned Counsel for the petitioners namely: (a) 1995 (II) CTC 89, (b) 1996 (1) CTC 148 and (c) AIR 1968 Allahabad 184 all pertain to principles underlying the grant of an order of injunction under Order 39 Rule 1 and 2 CPC which are not in dispute. But in the instant case, none of the ingredients for the grant of an injunction have been satisfied by the petitioners but instead they have only abused the process of law and Courts by filing a frivolous and vexatious suit.

27. The Hon'ble Supreme Court as well as our High Court in many decisions have held that the High Court under Article 227 of the Constitution of India has got the power to strike off frivolous and vexatious suits. The judgments relied upon by the learned Counsel for the respondent namely 2018 (2) MWN (Civil) 172, 2003 (4) CTC 347 and (2011) 8 SCC 249 also lend support to this view. Exercising the power under Article 227 of the Constitution of India, for the foregoing reasons, this Court is striking off the plaint filed by the petitioners in O.S. No. 440 of 2010 pending on the file of II Additional Subordinate Judge, Coimbatore. Even though the filing of the frivolous and vexatious suit was brought to the notice of this Court in a revision filed by the petitioners who are themselves the plaintiffs in the suit, this Court has got the power to strike off the plaint filed by the petitioners as Article 227 of the Constitution of India does not bar the High Court to exercise such power even if it is detrimental to the interest of the petitioners who have themselves approached this Court under Article 227 of the Constitution of India. The Trial Court and the Lower Appellate Court have rightly held the suit filed by the petitioners is an abuse of process of Court.

28. The respondent who has been harassed by the frivolous and vexatious litigation instituted by the petitioners must be adequately compensated by way of costs. In the considered view of this Court, a sum of Rs. 25,000/- will have to be paid by the petitioners to the respondent as costs for filing a frivolous and vexatious suit instead of Rs. 2,000/- awarded by the Lower Appellate Court.

29. In the result, there is absolutely no merit in this revision and the CRP is dismissed with cost of Rs. 25,000/- payable by the petitioners to the respondent within a period of two weeks from the date of receipt of this order and the plaint filed in O.S. No. 440 of 2010 on the file of the II Additional Subordinate Judge, Coimbatore is directed to be struck off by this Court. Consequently, the connected miscellaneous petition is closed.

Note to the Registry: To curb the menace of frivolous and vexatious litigations unnecessarily wasting the precious time of the Courts, the Registrar General of this Court is directed to intimate all the registries of the subordinate judiciary that in future whenever a suit has been filed to declare a judgment and decree passed in another suit as null and void, the concerned registry of the jurisdiction Court is directed to place the suit for maintainability before the presiding officer, who shall decide about its maintainability and whether the suit can be numbered or not. A copy of this order is also directed to be circulated to all the Principal Judges of the District Courts.

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