



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P. (PD) (MD) No.1800 of 2016

WEB COPY

P.Sellamuthu

:Petitioner

Vs.

1.Murugananthan

2.K.S.Nallasamy

3.R.S.Sakthivel

4.P.Chinnasamy

5.M.Balakrishnan

:Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to direct the District Munsif, Karur to number the O.S.S.R.No.5747 of 2016 on the file of District Munsif Court, Karur.

For Petitioner

: Mr.K.Govindarajan

ORDER

The civil revision petition arises against the return of plaint filed in O.S.S.R.No.5747 of 2016 on the file of the learned District Munsif Court, Karur.

2.The petitioner herein filed a suit in O.S.S.R.No.5757 of 2016, praying for permanent injunction against the defendants/respondents herein on 18.08.2016. The said plaint was returned on the same day stating as follows:

"The plaintiff filed the suit by stating that is sub-lease has been executed in favour of the plaintiff by the 1st defendant on 10.05.2007. On perusal of the lease executed by the Arukkakal in favour of the 1st defendant. On 6.4.1994 is only for 5 years that is upto 5.4.99 so the 1st defendant as no right to execute any kind of sub lease or any kind of documents in favour the plaintiff or any other persons regarding the suit property after 5.4.99. Since the lease dated 6.4.94 is registered one the 1st defendant cannot claim any right over the suit property beyond the period of 5 years. When there is no specific averments regarding renewal the lease. So the plaintiff can't seek any relief based on the documents executed by the 1st defendant without any right to do so. Hence the how this suit is maintainable based on the invalid documents.

Hence plain is returned."

<https://hcservices.ecourts.gov.in/hcservices/>

3.The plaint was represented by the petitioner/plaintiff on 19.08.2016. However, the plaint was again returned on 22.08.2016



stating as follows:

"Certified copy of tenants record as to be filed to show that the 1st defendant and the plaintiff is in possession over the suit property as cultivating tenant. Hence the plaint is returned."

Therefore, the petitioner has filed the present revision petition by submitting that the aforesaid suit has been filed for permanent injunction and therefore, the burden is on the part of the plaintiff to show his possession from the date of filing of the suit.

4.Considering the facts and circumstances of the case, I am of the view that the return of the plaint is erroneous without any justification. Therefore, in the interest of justice, the trial Court is directed to number the suit, if it is otherwise in order, without insisting the document to establish the possession of the land, at the unnumbered stage. If any other defects are pointed by the learned District Munsif, the petitioner has to comply with the same. In the event of numbering the suit, the trial Court is directed to decide the matter, being uninfluenced any observation made in this order on merits and in accordance with law.

5.This civil revision petition is disposed of with above direction. No costs.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar(CS)

Madurai Bench of Madras High Court,
Madurai-23.

To

The District Munsif, Karur.

Copy to : The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.
(to return the original plaint)

+1cc to Mr.K.Govindarajan, Advocate Sr.No.52698

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14.09.2016

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