



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2016

CORAM:

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

C.R.P(MD)No.226 of 2016 (PD)

WEB COPY

R.Ayyanadar Karthik

.. Petitioner

Vs.

K.Subburaj

.. Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of C.P.C, to set aside the order, dated 11.12.2015 passed in O.S.No. (un-numbered) of 2015 in Diary No.729 of 2015 on the file of the District Munsif of Sivakasi, by allowing this Civil Revision Petition.

For Petitioner : Mr.S.Subbiah

ORDER

The petitioner filed a suit in O.S.(un-numbered) of 2015 before the District Munsif Court, Sivakasi for declaration that the Judgment and Decree passed in O.S.No.100 of 1984 is null and void. The plaint was returned stating that how the suit is maintainable without impleading the plaintiffs and defendants in the earlier suit in O.S.No.100 of 1984.

2.The petitioner re-presented the plaint stating that all the parties in the earlier suit are dead and no properties belonging to them is subject matter of the suit. Not being satisfied with the said reason, the plaint was returned on 11.12.2015. Against that return, the present Civil Revision Petition has been filed.

3.The learned counsel for the petitioner submitted that the plaint was returned without specifically stating the nature of defect, whether the earlier defects pointed out were complied with partly or fully.

4.I have heard Mr.S.Subbiah, learned counsel appearing for the petitioner and also carefully perused the entire materials on record.

5.From the materials it is seen that the petitioner is seeking for a declaration that the Judgment and Decree in O.S.No.100 of 1984 as null and void. In the circumstances, the parties in the suit are necessary and proper parties. If all of them are dead, the legal representatives of the plaintiffs and defendants therein, are necessary and proper parties. The learned Judge has rightly returned the plaint pointing out this defect. The said reason does not warrant interference by this Court. When the Civil Revision Petition was taken up for admission, the learned counsel for the petitioner submitted that the petitioner will represent the plaint and he will file the suit impleading the parties to the earlier suit and if parties are dead, will implead the legal heirs of the plaintiffs and defendants therein. The same is recorded. The Registry is directed to return the Original plaint to the learned counsel for the petitioner after obtaining proper acknowledgment and substituting the same with a Xerox copy.



6. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/

Assistant Registrar(W)

WEB COPY/TRUE COPY/

Sub Assistant Registrar(C.S)
Madurai Bench of Madras High Court,
Madurai.

To

The District Munsif,
Sivakasi.

Copy to

The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court, Madurai.
(For returning original plaint)

C.R.P (MD) No.226 of 2016 (PD)
22.02.2016

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