



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2016

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P. (MD) No. 2459 of 2016

Sarath King

.. Petitioner/Petitioner/Plaintiff

Vs.

1. Enose

2. Palayyan

.. Respondents/Respondents/Defendants

PRAYER: Petition filed under Article 227 of Constitution of India, to set aside the docket order dated 22.10.2016 and direct the District Munsif, Kuzhithurai to number the unnumbered O.S.No. Of 2016.

For Petitioner

: Mr.M.P.Senthil

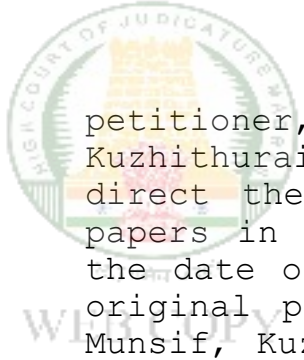
O R D E R

This Civil Revision petition has been filed seeking a direction to the learned District Munsif, Kuzhithurai, to number the unnumbered suit of 2016.

2. Heard the learned counsel appearing for the petitioner.

3. The present suit has been filed by the Revision petitioner for permanent injunction against the respondents in the suit property. According to the petitioner, the petitioner has filed a petition to raise the attachment made in O.S.No.84 of 2010 before the Subordinate Court, Kuzhithurai. The said application was returned stating that the description of the property was differed from the document produced along with the petition. But, according to the petitioner, the attached property relates to the property of the plaintiff. The petitioner is not a party to the earlier suit in O.S.No.84 of 2010. The present suit has been filed by the petitioner. The Court below has raised a query that the suit is not maintainable. According to the petitioner, whether the prayer in the suit is maintainable or not, has to be decided only after numbering the suit. Therefore, at this stage, the Court below cannot return the papers on the ground that without the prayer of declaration, how the suit of permanent injunction is maintainable against the Court proceedings.

4. In view of the said submissions made by the Revision



petitioner, the order passed by the learned District Munsif, Kuzhithurai, in unnumbered suit of 2016 is set aside and this Court direct the Revision petitioner to re-present the original plaint papers in the aforesaid suit within a period of twelve weeks from the date of receipt of a copy of this order. In the event of the original plaint papers received by the Court below, the District Munsif, Kuzhithurai, is directed to number the suit subject to the objection raised by the Court below regarding the maintainability to be decided at later stage, by giving opportunities to the parties concerned.

5. The Civil Revision petition is allowed with the above terms. No costs.

Sd/-

Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

To

1. The District Munsif, Kuzhithurai.
2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai.

+1 cc to Mr. M.P.SENTHIL, Advocate, Sr.No:74632

pmu

MAS/SS2-KSM:19.01.2017: 2P/4C

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