



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP (MD).No.579 of 2016

V.C. Vaithyalingam : Revision Petitioner/Petitioner

Vs.

1. V.C. Marimuthu
2. S. Dhanasekaran
3. K. Gopal

: Respondents / Respondents

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India against the docket order dated 22.02.2016 made in unnumbered OS of 2016 and to set aside the same and to direct the learned District Munsif, Mudukulathur to number the Original suit and proceed the same.

For Petitioner : Ms. T. Lajapathiroy

ORDER

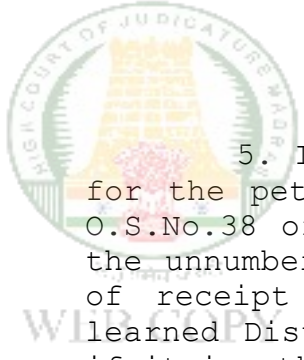
The Civil Revision Petition is filed against the docket order dated 22.02.2016 made in unnumbered O.S.No. of 2016 and to set aside the same and to direct the learned District Munsif, Mudukulathur, to number the Original suit and proceed the same.

2. The revision petitioner filed the suit for the relief of declaration that sale deed executed by the first respondent to third respondent through second respondent, who is the power agent of first respondent is null and void and for injunction. The said application was returned by the learned Judge on 22.02.2016, on the ground that the petitioner has already filed O.S.No.38 of 2015 against the first respondent, for the partition of the property including the property mentioned in the present suit and he further pointed out that the petitioner has to claim his relief only in the partition suit in O.S.No.38 of 2015. Against that, the petitioner has come out with the present petition.

3. The learned counsel appearing for the petitioner submitted that the learned Judge failed to see that the petitioner filed O.S.No.38 of 2015 for partition and the present suit is for declaration to declare the sale deed executed by the first respondent through second respondent to third respondent is null and void. He further contended that the relief sought for in the present suit cannot be claimed in the partition suit.

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

4. I have heard the learned counsel appearing for the petitioner and perused the materials available on record.



5. In view of the submission made by the learned counsel appearing for the petitioner that the relief sought for in the present suit and O.S.No.38 of 2015 are different, the petitioner is directed to represent the unnumbered O.S. of 2016 within a period of three weeks from the date of receipt of a copy of this order and on such representation, the learned District Munsif, Mudukulathur, is directed to number the plaint, if it is otherwise in order and decide the issue on merits.

6. In the result, the Civil Revision Petition is disposed of. No costs.

Sd/-
Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar

To
The District Munsif, Mudukulathur

+1 CC to M/s.T.LAJAPATHI ROY, Advocate, SR No.15450

CRP (MD).No.579 of 2016
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