



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.01.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P. (PD) (MD) No.51 of 2018

Y.Vethanayagam : Petitioner / Plaintiff

vs.

- 1.Devadhas @ Ruban Devadhas
- 2.Merlin Joy
- 3.Nelson
- 4.Amirtham
- 5.Meenakshisundaram Pillai
- 6.Agasthilingam Pillai

7.The Executive Officer,
Arulmigu Nainar Kulasekara Vinayagar Thirucoil,
Aralvoimozhi (North),
Aralvoimozhi Village,
Thovalai Taluk,
Kanyakumari District.

8.The Executive Officer,
Arulmigu Muppanthal Esakkiamman Thirukovil (East),
Muppanthal, Aralvoimozhi Village,
Thovalai Taluk, Kanyakumari District.

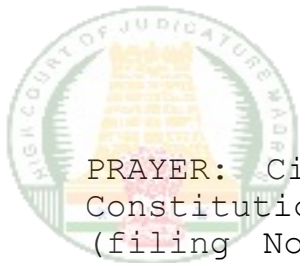
9.The Joint Commissioner / Executive Officer,
Incorporated and unincorporated
-Devaswom of Kanyakumari District,
Suchindram, Suchindram Village,
Agateeswaram Taluk, Kanyakumari District.

10.The Assistant Commissioner,
H.R. & C.E.(Admin.) Department,
Nagercoil, Agateeswaram Taluk,
Kanyakumari District.

11.The Commissioner,
H.R. & C.E. (Admin) Department,
Chennai.

12.The State of Tamil Nadu,
Represented by the District Collector,
Kanyakumari District,
Nagercoil.

: Respondents / Defendants



PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the unnumbered O.S.No. of 2017 (filing No.OST/853/2017) on the file of the Principal Sub-Court, Nagercoil.

WEB COPY

For Petitioner : Mr.V.Meenakshi Sundaram
for Mr.R.Murugan
For R7 to R12 : Mr.K.Anbarasan
Additional Government Pleader

ORDER

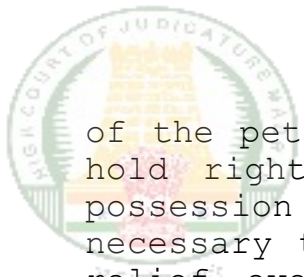
This Civil Revision Petition is filed to direct the Principal Sub-Court, Nagercoil to number the plaint presented by the petitioner in unnumbered document in filing No.OST/853/2017.

2.The petitioner, as plaintiff, has filed a suit before the Principal Sub Court, Nagercoil, for demarcating item 1 of the suit properties, for declaring the sale deed dated 07.12.2009 as null and void and for various other reliefs including prayers for a permanent injunction restraining the defendants from interfering with the plaintiff's peaceful possession and enjoyment of Item 1 and 2 of plaint schedule properties. The averments in the plaint and the cause of action for filing the suit indicate that the plaintiff claims exclusive right over the plaint item No.1 and right of passage over item 2 of suit schedule properties. The second item of suit schedule property though admitted by the plaintiff that it belongs to a temple which is under the administration of defendants 7 to 11, the petitioner claimed that it is a property in which, he has a right as an assignee of a lease hold right, which was originally given to a third party by defendants 7 to 11. It is stated that the lease hold right was assigned to him by way of sub lease. The plaint was, however, returned by the lower Court for the following reasons :

1. When the plaintiff's is not recognized by the 7-11 defendants as sub-lessee, how he can claim right and prohibitory relief for the other man's property?
2. No document produced to show that the Plaintiff is a sub-lessee under the defendants 7-11 for the item No. of schedule property.
3. On what basis, the plaintiff is claiming D-F's relief when he is not recognized as sub-lessee by the defendants 7-11.
4. Originals of documents 7 & 10 to be produced to be explained
Time 15 days
Fresh fly sheet to be attached.

Sdxxx
26.10.17

<https://hcservices.ecourts.gov.in/hcservices/>
3. The lower Court can verify whether the suit is presented in the format and it is in compliance of the provisions under Order 7 of CPC. In this case, the return of the plaint is only on the merits



of the petitioner's claim, in the plaint. As a transferee of lease hold right from a third party, the petitioner claims to be in possession and seek relief to protect his possession. It is not necessary that the plaintiff should establish his right to get the relief even at the time of presenting the plaint. Despite the petitioner submitting reasons while responding to the queries raised by the Presiding Officer, the learned Principal District Judge has repeatedly returned the plaint only on the ground that the previous queries for returning the plaint were not complied with by the petitioner / plaintiff.

4.This Court is not able to sustain any of the reason for which the plaint was returned. It is open to the lower Court to decide the matter on merits by giving reasons. However, even before numbering it, it is not appropriate to return the plaint in the manner as it was done by the Presiding Officer. As a result, the Civil Revision Petition is allowed and the Principal Sub-Court, Nagercoil is directed to number the plaint, presented by the petitioner in unnumbered in filing No.OST/853/2017, if the papers are otherwise in order.

5.Office is directed to return the original plaint to the Counsel for the petitioner, so that he can produce the same before the lower Court and proceed further.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To

1.The Principal Sub-Court, Nagercoil.

2.The Executive Officer,
Arulmigu Nainar Kulasekara Vinayagar Thirucoil,
Aralvoimozhi (North), Aralvoimozhi Village,
Thovalai Taluk, Kanyakumari District.

3.The Executive Officer,
Arulmigu Muppanthal Esakkiamman Thirukovil (East),
Muppanthal, Aralvoimozhi Village,
Thovalai Taluk, Kanyakumari District.

4.The Joint Commissioner / Executive Officer,
Incorporated and unincorporated
-Devaswom of Kanyakumari District,
Suchindram, Suchindram Village,
Agateeswaram Taluk, Kanyakumari District.



5.The Assistant Commissioner,
H.R. & C.E.(Admin.) Department,
Nagercoil, Agateeswaram Taluk,
Kanyakumari District.

6.The Commissioner,
H.R. & C.E. (Admin) Department, Chennai.

7.The District Collector,
Kanyakumari District, Nagercoil.

+One cc to Mr.R.Murugan, Advocate, SR.No.41760

Copy to:-

**The Section Officer, V.R.Section (2 copies)
Madurai Bench of Madras High Court, Madurai**

cmr

RL/11C/4P/JC/SAR4/13/2/2018

C.R.P. (PD) (MD) No.51 of 2018

11.01.2018