



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE M.V. MURALIDARAN

C.R.P(MD).No.1163 of 2015 and
MP(MD).No. 1 of 2015

Charless Chelladurai

... Petitioner

Vs.

1. J.Jaya Seele
2. J.Christopher Philip
3. J.Andrews Paul
4. J.Milton Samuel
5. P.Sam Maheshkkumar
6. T.Paulraj

... Respondents

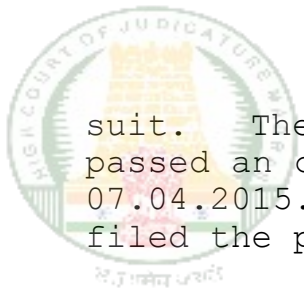
Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India to call for the records relating to the order dated 01.06.2015 passed in un-numbered I.A.No... of 2015 in O.S.No. 27 of 2009, on the file of the I Additional District and Sessions Judge, Trichy and set aside the same and to direct the learned I Additional District and Sessions Judge, Trichy, to number the Interlocutory Application dated 07.04.2015 filed under Order 9 Rule 8 CPC and dispose the same on merits.

For Petitioner	... Mr.A.N. Ramanathan
For respondents	... No appearance

ORDER

The petitioner has filed the present Civil Revision Petition invoking Article 227 of the Constitution of India to call for the records relating to the order dated, 01.06.2015 passed in un-numbered I.A.No... of 2015 in O.S.No. 27 of 2009, on the file of the I Additional District and Sessions Judge, Trichy and to set aside the same and also to direct the learned I Additional District and Sessions Judge, Trichy, to number the Interlocutory Application dated, 07.04.2015 filed under Order 9 Rule 8 CPC and to dispose the same on merits.

2. The respondent Nos. 1 to 4, who are the plaintiffs have filed a Suit in O.S.No. 27 of 2009, on the file of the learned I Additional District and Sessions Judge, Trichy, for recovery of a sum of Rs.17,02,500/-. The first defendant, who is the revision petitioner herein, has filed an un-numbered application in I.A.No.... of 2015 under Order 9 Rule 8 CPC, for dismissal of the



suit. The learned Judge without numbering the said application, passed an order rejecting the application filed by the petitioner on 07.04.2015. Aggrieved over the same, the petitioners herein have filed the present Civil Revision Petition.

3. Heard the learned counsel appearing for the petitioner. Even though the names of the respondents are printed in the cause list, there was no representation on behalf of the respondents.

4. The absolute view of this Court is that once an application is filed under the provisions of Civil Procedure Code, it is the duty of the Court to number the said Application and pass appropriate orders on merits, after issuing notice to both parties. But, in the present case, the learned Judge has simply rejected the petition filed by the petitioner without numbering the same and the Civil Revision Petition is pending from 2015 onwards. Hence, this Court is inclined to allow this Civil Revision Petition by setting aside the order dated, 01.06.2015 passed in un-numbered I.A.No... of 2015 in O.S.No. 27 of 2009, on the file of the I Additional District and Sessions Judge, Trichy

5. Accordingly, this Civil Revision Petition is allowed. The learned I Additional District and Sessions Judge, Trichy, is directed to number the said un-numbered application in I.A.No..... of 2015 and pass appropriate orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order, by giving notice to both parties. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar

To

The I Additional District and Sessions Judge,
Trichy.

Copy To:-

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

+ 1 CC TO Mr.AN.RAMANATHAN, ADVOCATE IN SR No. 68439

TRP

TE/SKN-RSK/SAR-4 : 06/07/2018 : 2P/5C