



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.R.P. (PD) (MD) No.962 of 2018

WEB COPY

Marithai @ Maheswari

.. Petitioner

Vs.

1.M.Mariappan
2.N.Esakkiammal
3.N.Mayandi @ Durai
4.N.Ponnudurai
5.N.Nallakannu
6.N.Shanmuganathan
7.N.Kombaiah

.. Respondents

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India praying for a direction to the learned Principal District Judge, Thoothukudi, to receive, take on file and number the suit in O.S.No.(unnumbered) of 2018 in Diary No.1186 of 2018.

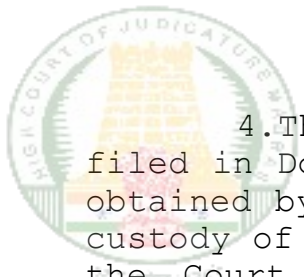
For Petitioner : Mr.S.Subbiah, Senior counsel for
Mr.N.Subramanian

ORDER

The Civil Revision Petition has been filed praying for a direction to the learned Principal District Judge, Thoothukudi, to receive, take on file and number the suit in O.S.No.(unnumbered) of 2018 in Diary No.1186 of 2018.

2.The petitioner is the plaintiff and he has filed a suit before the learned Principal District Judge, Thoothukudi for partition. The learned Principal District Judge, Thoothukudi has returned the said plaint on various reasons, particularly on 07.03.2018, the learned Principal District Judge, Thoothukudi has returned the plaint stating that the documents 1 to 25 are to be filed in certified copies, documents related to all schedule of properties are to be produced, death certificate and legal-heirship certificate of Late Nanjappa Thevar are to be produced, guideline value of the schedule of properties are to be produced and pencil corrections are to be carried out.

3.Heard the learned Senior Counsel for the petitioner and perused the returns made by the learned Principal District Judge, Tuticorin.



4. The petitioner filed a suit for partition and the documents filed in Document Nos.1 to 25 are all Xerox copies and it cannot be obtained by the plaintiff for the reason that the documents are the custody of the defendants. Therefore, he is unable to produce before the Court below. But the learned Judge without considering the nature of the documents sought to be filed as directed to file original are unacceptable one.

5. Apart from this, it is my absolute view that non filing of the original documents at the time of filing the suit has no relevancy to numbering the suit. The suit can be numbered even with the Xerox copy of the documents and it is the bounden duty of the parties to produce the original which sought to be marked at the time of trial. Therefore, for mere filing of the suit, the parties cannot be asked to produce the original copies or certified copies of the documents. In fact, the present suit filed by the petitioner/plaintiff is only a partition suit, even without documents, the suit can be numbered, since all the documents pertaining to the suit properties are in custody of the defendants. Therefore, the very return of the plaint by the learned Judge for non production of the certified copies or the original documents is not proper.

6. In the result:

(a) this Civil Revision Petition is disposed of;

(b) the learned Principal District Judge, Tuticorin, is directed to number the said plaint within a period of two weeks from the date of receipt of a copy of this order and dispose the suit on merits. No costs.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant registrar

To

The Principal District Court,
Tuticorin.

+1 cc to Mr.N.Subramanian, Advocate, SR.NO.63931

C.R.P. (PD) (MD) No.962 of 2018
27.04.2018

VSV/AKV

VE/KKR/SAR 1/05.06.2018/2P/3C