



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.R.P. (PD) (MD) No.341 of 2015

and

M.P. (MD) No.1 of 2015

Pandiarajan

... Petitioner/ Petitioner/Plaintiff

-vs-

1. Sri Venkatesh Cotton Trader,
Represented by its proprietor Ravi,
Door No.90, Kooraipillayar Kovil Street,
Rajapalayam.
 2. Sri Venkatesh Cotton Trader,
Represented by its Proprietor Nandha,
Door No.90, Kooraipillayar Kovil Street,
Rajapalayam.
 3. Sivakumar Cotton Trader,
Represented by its Proprietor Babu,
S/o. Soori Chettiar,
Door No.3/B-249, Murugavilas Ginning Factory,
Rathinam Nagar, Periyakulam Road,
Theni.
- ... Respondents/Respondents/Plaintiffs

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the fair and decreetal dated 04.08.2014 passed in Unnumbered I.A. of 2014 in O.S.No.89 of 2014, on the file of the District Munsif Court, Virudhunagar and allow the present Civil Revision Petition.

For Petitioner : Mr.S.Sathesh Kumar

For Respondents : No Appearance

O R D E R

Heard the learned counsel for the petitioner.

2. The petitioner / plaintiff has filed a suit in O.S.No.89 of 2014 for numbering the un-numbered I.A, seeking for the amendment



to amend the plaint as a declarative one. The learned District Munsif, Virudhunagar, without numbering the said application has simply rejected the same on the ground that the petitioner cannot seek relief of declaration. Aggrieved by the same, the petitioner is before this Court.

3. Before this Court, the petitioner has filed this petition under the same proceedings and wants to set aside the fair and decreetal dated 04.08.2014 passed in Unnumbered I.A. of 2014 in O.S.No.89 of 2014, on the file of the District Munsif Court, Virudhunagar

4. Therefore, this Court is of the view that the Trial Court must have numbered the application, by issuing notice to the other parties and thereafter, to decide on merits. But, admittedly, in this case, when the petitioner filed this un-numbered I.A. of 2014 before the learned Judge, the learned Judge has simply dismissed the application by saying that amendment for declaration is not maintainable and rejected, which is not permissible in law.

5. Considering the nature of the case and also the order passed in the suit, this Court is inclined to allow this petition.

In the result,

a) the Civil Revision Petition is allowed;

b) the order dated 04.08.2014 passed by the learned District Munsif Court, Virudhunagar in I.A.No. /2014 in O.S.No.89 of 2014 is set aside and remanded back to the learned District Munsif, Virudhunagar, directing the learned District Munsif to number the said application and issue notice to the other parties and pass appropriate orders within a period of two months from the date of numbering the application.

No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To:

1. The District Munsif Court, Virudhunagar.



2.The Record Keeper, (2 copies)
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.S.Sathesh Kumar, Advocate Sr.No.61227

TSG

VB/KKR/SAR3/27/04/2018/3P/5C

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