



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.06.2018
CORAM:

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.R.P. (MD) No.1222 of 2018 (NPD)

K.Alagesan

... Petitioner/Petitioner/
Respondent/Respondent

Vs.

Mr.Senthilkumar
represented thro' his power of
attorney R.Ramarajan

... Respondent/Respondent/
Petitioner/Petitioner

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to direct the Additional District Munsif Court, Madurai Town to number the E.A., presented in A.No.8581 of 2018 in E.P.No.56 of 2018 in R.C.O.P.No.54 of 2007 and direct the Additional District Munsif Court, Madurai Town to decide the same on merits.

For Petitioner : Mr.D.Malaichamy

O R D E R

This Civil Revision Petition is filed for a direction to the learned Additional District Munsif, Madurai Town, to number the E.A., presented in A.No.8581 of 2018 in E.P.No.56 of 2018 in R.C.O.P.No.54 of 2007.

2.The petitioner, who is the tenant, has filed un-numbered E.A., in E.P.No.56 of 2018 before the Additional District Munsif Court, Madurai Town, seeking a direction to set aside the ex-parte order dated 05.06.2018. The said petition was returned by the learned Judge on the ground that already order was passed in C.R.P., and the R.C.O.P., was contested and thereafter, the petition in E.P.No.56 of 2018 has been filed within two years. Therefore, the said E.A was returned stating that how this petition is maintainable.

3.On a fair reading of both return endorsement made by the learned Judge, this Court is shocking as to why the trial Court had returned the un-numbered E.A and when the petitioner filed an application under Order 21 Rule 106(3) CPC., the trial Court must have entertained the application and pass orders on merits, but without doing so, the said E.A., petition was returned by the



learned Judge on 08.06.2018, which is not at all maintainable. Therefore, the petitioner has approached this Court seeking a direction to direct the learned Judge to number the E.A and to pass appropriate orders on merits.

4. Heard the learned counsel for the petitioner and perused the materials placed before this Court.

5. Since the petitioner has sought for a limited prayer to direct the learned Judge to number the E.A., no notice is necessary to the respondent, which would cause no prejudice in anyway to the respondent. Therefore, I am inclined to pass the following order:

The learned Additional District Munsif, Madurai Town is directed to number the un-numbered E.A., in A.S.No.8581 of 2018 in E.P.No.56 of 2018 in R.C.O.P.No.54 of 2007 within a period of two weeks from the date of receipt of a copy of this order and to decide the same on merits and in accordance with law after issuing notice to the respondent within a period of four weeks thereafter.

6. The Civil Revision Petition is disposed of, with the above direction. No costs.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Additional District Munsif ,
Madurai Town.

2. The Sectio Officer,
ER Section,
Madurai Bench of Madras High Court,
Madurai.

(To return the original impugned order copy to the petitioner)

+1cc to Mr.D.Malaichamy, Advocate Sr.No.69534

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MK/SKN RSK/SAR 1/27.06.2018/2P/4C

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