



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.08.2018

CORAM:

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THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

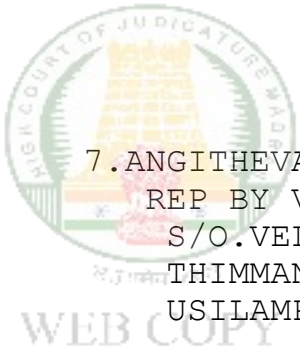
C.R.P. (PD) (MD) No.1680 of 2018

Mathiyathevar Vagaira

...Petitioner/Plaintiff

Vs.

1. PERIYATHEVAR @ OCHATHEVAR VAGAIRA
REP BY A.KASIMAYAN, S/O.AYYARTHEVAR,
LINGAPANAYAKKANNOOR,
THIMMANATHAM POST,
USILAMPATTI TK, MADURAI DT.
2. MOOLATHEVAR VAGAIRA
REP BY S.SAKKARAITHEVAR
S/O.SAKKUTIOCHATHEVAR,
KULINTHANAGAR,
AYYANARKULAM POST,
USILAMPATTI TK, MADURAI DISTRICT.
3. CHULIOCHATHEVAR VAGAIRA
REP BY K.MALAISAMY
S/O.KANAMUTHATHEVAR,
CHULIOCHANPATTI,
THIMMANATHAM POST,
USILAMPATTI TK, MADURAI DISTRICT.
4. KATTAKALAITHEVAR VAGAIRA
REP BY P.GOPALTHEVAR, S/O.PERIAKARUPPATHEVAR,
PASUKKARANPATTI,
USILAMPATTI TK, MADURAI DT.
5. UDAIYATHEVAR VAGAIRA
REP BY T.KANNAN
S/O.THAVASITHEVAR,
11TH WARD, OCHATHEVAR STREET,
USILAMPETTI TOWN, MADURAI DT.
6. POTTULUPANTHITHEVAR VAGAIRA
REP BY O.MAHARAJAN,
S/O.OCHATHEVAR,
KOPPILIPATTI,
THIMMANATHAM POST,
USILAMPATTI TK, MADURAI DT.



7. ANGITHEVAR VAGAIRA
REP BY V. OCHATHEVAR
S/O. VELLAYATHEVAR, KOPPILIPATTI,
THIMMANATHAM POST,
USILAMPATTI TK, MADURAI DT.
8. KEERITHEVAR VARAIRA
REP BY KASIMAYAN
S/O. OCHATHEVAR, KERRIPATTI,
USILAMPATTI TK, MADURAI DT.
9. KOOLATHEVAR VAGAIRA
REP BY S. PALANIYANDITHEVAR
S/O. SUKKIRANDITHEVAR,
MAKKILARPATTI,
USILAMPATTI TK, MADURAI DT.
10. KUTTAI OCHAN INTHU POOSARI VAGAIRA,
REP BY P.E. VALUSAMY
S/O. PERIYAKARUPPATHEVAR,
ANNAMPARIPATTI,
USILAMPATTI TK, MADURAI DT.
11. ANNAMPARI MAYATHEVAR INTHU POOSARI VAGAIRA
REP BY T. KASIMAYAN, AYYAN KODANKI
S/O. THAVASITHEVAR,
THARMATHUPATTI POST,
ATHUR TK, DINDUGUL DT.
12. ERATTAIVEERAN INTHU POOSARI
VAGAIRA REP BY M. OCHU
S/O. MATHUKKANNAATHEVAR, KEELAPUDUR,
USILAMPATTI TOWN, MADURAI DT.
13. MOONKIPERIYAKARUPPAN INDHU POOSARI VAGAIRA
REP BY A. UTHAYAN
S/O. AYYAUTHEVAR KEELAPUDUR,
USILAMPATTI TOWN, MADURAI DT.
14. SEVANTHAKARUPPAN INDHU POOSARI VAGAIRA
REP BY O. MACHAKKALAI
S/O. OCHATHEVAR,
USILAMPATTI TOWN, MADURAI DT.
15. PERIYAPOOJARI
(INCLUDED IN THE INTHU POOSARI VARAIRA)
REP BY V. RAMAKRISHNAN
S/O. VASIMALAITHEVAR,
VADAKATTUPATTI,
USILAMPATTI TK, MADURAI DT.



16.CHINNAPOOJARI (INCLUDED INTHU POOSARI VAGAIRA)
REP BY K. PALANIYAPPAN,
S/O.KARUPPANATHEVAR VADAKATTUPATTI,
USILAMPATTI TK, MADURAI DT.

17.AYYANARKULAM PERIYATHEVAR AKKAMAKKAL VAGAIRA
REP BY A.MANITHEVAR,
S/O.ALAGARSAMYTHEVAR,
AYYANARKULAM POST,
USILAMPATTI TK, MADURAI DT.

18.AYYANARKULAM CHINNATHEVAR AKKAMAKKAL VAGAIRA
REP BY M.RASUTHEVAR,
S/O.MUTHUKARUPPATHEVAR,
AYYANARKULAM POST,
USILAMPATTI TAKUL, MADURAI DT.

...Respondents/Defendants

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, as against the order of return made in unnumbered O.S.No.... of 2018 dated 23.07.2018 on the file of the Principal Sub-Court, Madurai(Usilampatti Camp).

For Petitioners : Mr.M.Thirunavukkarasu

O R D E R

The Civil Revision Petitioner sought to file a suit before the learned Principal Sub Judge, Madurai (Usilampatti Camp), seeking to frame scheme in respect of Pappapatti Ochandamnan Temple, etc. The plaint was initially returned by the Trial Court on 28.06.2018 with the following endorsement:

"1.How the suit is valued U/s 27(c) of TNSCFVS Act?

2.How the suit is filed in Madurai Jurisdiction?

3.Petition U/o 1, R8 CPC for representative capacity to be submitted.

4.Dates for plaint differs in the Plaint itself.

5.Necessary C.F Stamps to be affixed in the Xerox copies of the documents and Batta memo.

6.E-copies of plaint to be submitted.

7.Xerox copies of documents to be tagged along with Duplicate plaint."

2. Thereafter, the plaintiff has re-presented the said unnumbered plaint on 19.07.2018 by correcting all the returns made by the learned Judge. On the same day, the learned Judge again has returned the plaint for non compliance of the defects and the plaint, on its re-representation after due compliance, was returned for the third time on 23.07.2018 on the following grounds:

"1.Suit a relief to be valued Correctly.



2. Correct C.F provision to be noted for a relief.

Hence returned."

Aggrieved by the repeated returns, the petitioner/plaintiff is before this Court.

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3. The learned counsel for the petitioner/plaintiff submitted that as per the Tamil Nadu Court Fees and Suits Valuation Act, 1955 (herein after referred as 'the Act'), the petitioner/plaintiff has filed the said unnumbered suit and as per Section 39(1)(i) of the Act, for administration of suit, the following Court fee has been prescribed:

"39. Administration Suits.-[(1) In a suit for the administration of an estate, fee shall be levied on the plaint at the following rates:-

(i) In a District Munsif's Court or the City Civil Court, Chennai or a Sub-Court or a District Court.	Rupees one hundred if the value of the subject-matter is rupees thirty thousand or less; rupees five hundred if it is above rupees thirty thousand but below rupees one lakh; and rupees seven hundred and fifty if it is rupees one lakh and above.
(ii) In the High Court	Rupees one thousand]

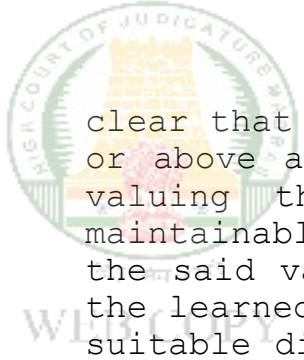
4. As per the above Section 39(1)(i) of the Act, the plaintiff has valued the suit at the rate of one lakh and represented the said suit, but even then, the learned Judge has returned the same. As per Section 39(1)(i) of the Act, it is made clear that if the suit value is one lakh and above, the administration suit can be filed before the learned Subordinate Judge, Madurai (Usilampatti Camp). Accordingly, the petitioner/plaintiff has re-presented the suit for Rs.1 lakh and on dissatisfied with the same, the learned Judge has returned the plaint on the ground that the valuation of the suit is not correct, against which, the present civil revision petition has been filed.

5. I have heard the learned counsel for the petitioner and perused the materials placed before this Court.

6. Since the petitioner has sought for only a direction to number the suit, no notice is necessary to the respondents, which would cause no prejudice anyway to the respondents.

<https://hcservices.ecourts.gov.in/hcservices/>

7. On perusal of the Section 39(1)(i) of the Act, it makes



clear that the administration suit can be valued either for one lakh or above and accordingly, the petitioner has also filed a suit by valuing the suit property as one lakh, which is absolutely maintainable and therefore, the learned Judge ought to have accepted the said valuation and numbered the suit. Since the return made by the learned Judge is contrary to law, this Court is of the view that suitable direction shall be issued to the Trial Court for numbering the suit.

8. Accordingly, the learned Principal Sub Judge, Madurai (Usilampatti Camp), is directed to number the suit within a period of two weeks from the date of receipt of a copy of this order and further proceed with the same in accordance with law.

9. With the above direction, this civil revision petition is disposed of. No costs.

Sd/
Assistant Registrar(P&A)

/True copy/

Sub Assistant Registrar (CS-II)

To

1. The Principal Subordinate Judge,
Madurai (Usilampatti Camp).

2. The Section Officer,
VR/ER Section,
Madurai Bench of Madras High Court,
Madurai. (**2 COPIES**)

+1cc to Mr. M. Thirunavukkarasu, Advocate, SR.No.76857

C.R.P. (PD) (MD) No.1680 of 2018
03.08.2018

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