

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:02.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(PD) No.2522 OF 2019

M.Mohammed Rafi

... Petitioner

Vs.

1.S.Majeedhkhan

2.S.Abdul Shamad

3.M.Mohammed Riyaz

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to issue direction directing the III Additional District and Sessions Court, Villupuram @ Kallakurichi, to number the plaint dated 13.05.2019 filed in C.F.R.no.100353 of 2019 in unnumbered suit on the file of the III Additional District and Sessions Court, Villupuram @ Kallakurichi, instead of returning the plaint on various dates namely 20.05.2019, 27.05.2019, 13.06.2019, 08.07.2019, 09.07.2019, 10.07.2019 and finally on 18.07.2019.

For Petitioner

: Mr.D.Gopal

ORDER

The petitioner herein filed a suit for specific performance against the respondents. The said suit was returned for rectification of certain defects. Despite the rectification of the defects, Registry has returned the plaint questioning as to how the Court can execute the sale deed in a specific performance suit.

2. It is well settled that the Registry has no authority to look into the maintainability on legal aspects of the subject matter of the suit. When the plaint is presented with a required particulars, duty is cast upon the Registry to register the plaint, without raising any issue on maintainability other than what is specified under Order VII Rule 1 of CPC. In so far as, the return No.2 is concerned the return made to explain as to how the Court can execute sale deed etc., are all matters to be decided by the judge. Registry has no role in returning the plaint on these legal aspects.

3. This Court in judgment reported in 2009(5) CTC 550 has held as under:

"The litigants would be put to difficulties in case the Court of original jurisdiction drag them from pillar to post, even before registering the plaint. The attempt of the Court before registering the plaint should be to ascertain as to whether the procedural requirement for filing such a suit

has been complied with by the plaintiff. The statutory provisions as contained under Order 7, Rule 1 of the Code of Civil Procedure prescribes the particulars to be contained in the plaint. In addition to the institution of the suit of general nature, there are suits in particular cases like the suit by or against the Government or public officers in their official capacity, inter-pleader suits, suits relating to public nuisance or other wrongful acts affecting the public at large as well as suits relating to public charities within the meaning of Section 92 of the Civil Procedure Code. There is a prescribed procedure contemplated for institution of such specified suits. The Court was obliged to examine as to whether the plaintiff has complied with such fundamental procedures, and in case of such compliance, the Court has no other alternative than to register the plaint. The Court was not powerless even after registering the plaint. The statutory provision as per Order 7, rule 11 of the Code of Civil Procedure enables the Court to reject the plaint at any point of time. It is not necessary to file written statement by the defendant for the purpose of exercising the jurisdiction to reject the plaint."

In view of the above judgment, a direction is issued to the learned III Additional District sessions Judge, Villupuram at Kallakurichi to number the plaint in C.F.R.No.100353 of 2019 dated 13.05.2019 to issue proceedings in accordance with law.

M.GOVINDARAJ, J.

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4. Registry is directed to return the original plaint to the petitioner enabling him to present it before the trial Court.

5. The Civil Revision Petition is disposed of with the above observation and direction. No costs.

02.08.2019

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Index: Yes/No

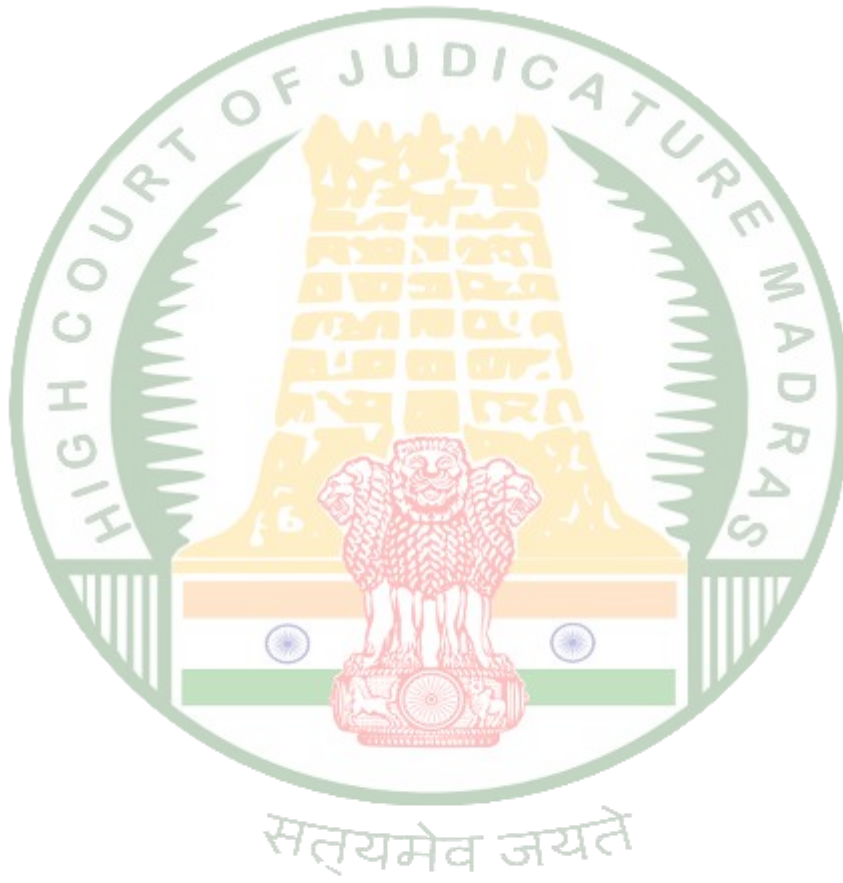
Speaking Order / Non Speaking Order

Note: Issue order copy on 27.08.2019.

To

The III Additional District and Sessions Court, Villupuram @ Kallakurichi.

C.R.P.(PD) No.2522 OF 2019



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