



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2019

CORAM :

THE HONOURABLE MRS.JUSTICE **S.RAMATHILAGAM**

CRP (MD) No.521 of 2019

1.M.Subramanian

2.M.Manian

... Petitioners/Plaintiffs

vs.

1.T.Jeyanthi

2.The Sub Registrar,
Thaiyengarpet,
Musiri Taluk,
Trichy District.

... Respondents/Defendants

PRAYER:- Civil Revision Petition filed the under Article 227 of the Constitution of India, to direct the Principal Subordinate Judge, Tiruchirappalli to number the plaint in O.S.SR.No.747 dated 14.12.2018.

For Petitioners : Mr.V.Singan

ORDER

This Civil Revision Petition has been filed to direct the learned Principal Subordinate Judge, Tiruchirappalli to number the plaint in O.S.SR.No.747 dated 14.12.2018.

2.For the sake of convenience, the parties will be referred to as per their ranks before the trial Court.

3.The learned counsel for the plaintiffs contended that the suit in O.S.SR.No.747 was filed by the plaintiffs for declaring the plaintiffs absolute and exclusive title to the suit property and for permanent injunction from restraining the first defendant from interfering with the plaintiffs' peaceful possession and enjoyment of the suit property by creating any further encumbrance over the property on the basis of the fabricated sale deed in her favour by document of sale deed dated 05.07.1996. The plaintiffs proceeded the suit claiming those reliefs.



4.The return made by the trial Court is that "on the basis of sale agreement, declaration of title cannot be granted. As per documents, plaintiffs have no right over the suit property except the extent covered under document number 1. Hence, the prayer for declaration is not maintainable."

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5.For the said return, the plaintiffs have represented the same by stating that as per the plaint averment, the possession was given to them and patta for the said property has been changed in favour of their names and after delivering the possession of the property, the proposed vendee continued her possession of the property for the period of more than 12 years, has acquired a right by prescription in her favour as against the proposed vendor. The execution of document of sale by the first defendant from Muthusamy on 05.07.1996 is not valid. Hence, the plaintiffs are entitled to file the suit for declaration for their right in the property. As regards cause of action in respect of the second defendant date of notice is the cause of action and hence, the suit is maintainable.

6.Further, it is seen that before the Trial Court when the matter was taken up for hearing on 11.01.2019, at request of the plaintiffs, the plaint was returned and one month time was granted, on the plaintiffs' consent to represent the same for necessary consideration.

7.In view of the above, there is no merit in this Civil Revision Petition and the same is dismissed. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

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To

The Principal Subordinate Judge,
Tiruchirappalli.

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