



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.07.2019

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

C.R.P(MD)No.939 of 2019 (PD)

A.Ramadoss

.. Petitioner/Plaintiff

Vs.

1.A.Senthilmurugan

2.A.Appadurai

3.N.Muthulakshmi

4.V.Rajammal

5.M.Nellaiammal

6.The Sub Registrar,
Sub Registrar Office,
Kalakad,
Tirunelveli District.

.. Respondents / Defendants

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the return order dated 22.03.2019 in unnumbered O.S.SR.No.116 of 2019 on the file of the District Munsif Court, Nanguneri and to take the suit on file and number the same.

For Petitioner : Mr. S.Saji Bino

ORDER

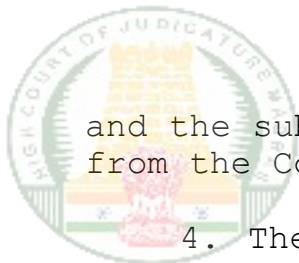
This revision petition has been filed by the petitioner/plaintiff against the return endorsement made by the Court below dated 22.03.2019.

2. The endorsement made by the Court below reads as follows:

"As per the plaint averments, there are two suits pending ie., O.S.No.41 of 2009 and O.S.No.114 of 2017 with regard to the suit property. The plaintiff can file counter claim in any one of the above suits, instead to file this suit.

Why the plaintiff has not filed the counter claim in the above suits to be explained. One month time granted for representation."

3. When the matter came up for hearing on 24.06.2019, the learned counsel for the petitioner submitted that pendency of the suits in respect of the very same property is not a bar for the petitioner to file the present suit and hence, the Court below may be directed to number the suit. Considering the return endorsement



and the submission of the petitioner, this Court called for a report from the Court below.

4. The Court below submitted a report dated 06.07.2019 to the effect that the issue raised in the present plaint and in O.S.No.41 of 2009 on the file of the Subordinate Court, Valliyoor and O.S.No.114 of 2007 on the file of the District Munsif Court, Nanguneri, are one and the same and therefore, in order to avoid different type of judgments and the multiplicity of cases, he returned the plaint with a direction to pray the same before the Subordinate Court, Valliyoor in O.S.No.41 of 2009.

5. The reasons stated by the Court below cannot be countenanced at this stage. It is for the other side to say that the matters are one and the same. As the Court below returned the plaint only seeking explanation, this Court is of the view that the return endorsement dated 22.03.2019 need not be interfered with. In view of the above, the Court below is directed to number the suit and dispose of the same on merits and in accordance with law.

6. This civil revision petition stands disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS-II)

/TRUE COPY/

Sub Assistant Registrar.

To
The District Munsif, Nanguneri.

Copy to:

The Section Officer, ER Section,
Madurai Bench of Madras High Court, Madurai.
(To return the original plaint to the petitioner, after substituting a photostat copy of the same).

+1 CC to M/s.S.SAJI BINO, Advocate (SR-79086[F] dated 01/08/2019)

order made in
C.R.P(MD)No.939 of 2019 (PD)
31.07.2019

AM/13.08.2019/2P/4C