



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.08.2020

CORAM

THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

C.R.P. (MD)No.1180 of 2019

T.Vivekanandar

: Petitioner/Plaintiff

.. Vs ..

1.J.Ganga

2.The District Collector,
Kokkirakulam Kaspas,
Tirunelveli District.

: Respondents/Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to direct the Principal Sub Court, Tenkasi, to take on file and number it the order dated 20.06.2019 in unnumbered O.S.No... of 2019 on the file of the Principal Sub Court, Tenkasi.

For Petitioner

: Mr.K.Chengiz Khan
for M/s.G.Prabhu Rajadurai

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ORDER

This Civil Revision Petition is directed against the order returning the plaint that was presented by the revision petitioner claiming a compensation of Rs.5,00,000/- from the first defendant in the suit, who is the person, who according to the revision petitioner acted in his collusion with certain individuals to reject his nomination to contest as an office bearer of Primary Agricultural Cooperative Bank.

2.The plaint was returned on the ground that a suit for getting compensation from the Deputy Tahsildar who acted in official capacity is barred under Section 176 of the Tamil Nadu Cooperative Societies Act. It is further stated that the only remedy available to the plaintiff is to file before the proper forum. The lower Court has not indicated the proper forum to which the revision petitioner should approach. The jurisdiction of the Civil Court under Section 9 has to be decided on the basis of the cause of action and various facts that are found in the plaint. The return of plaint by holding that the suit is barred under Section 176 of the Tamil Nadu Cooperative Societies Act is improper. If a suit is barred under any provisions of law, the plaint can be rejected on that ground alone. Without even numbering the suit and without even giving an opportunity to the revision petitioner, the jurisdictional issue has been decided by the lower Court by relying upon Section 176 of the Tamil Nadu Cooperative Societies Act. Section 176 of the Tamil Nadu Cooperative Societies Act bars the suit only when the suit is against the public servant challenging



the action which is done in good faith. In the plaint, the allegation is that the first defendant in the suit is acted with *mala fides* and it is stated that the contention of the plaintiff is supported by further orders. This Court is unable to sustain the order of lower Court rejecting the plaint. Hence, the order returning the plaint presented by the petitioner on 20.06.2019 is set aside and this Civil Revision Petition is allowed. The trial Court is directed to number the suit. It is also open to the trial Court to decide the maintainability or jurisdiction of the civil suit as a preliminary issue. When such decision is taken on the basis of the objections or written statements that may be filed by the defendant, the suit can be disposed of uninfluenced by any of the observations made by this Court in this Civil Revision Petition. No Costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SRM

To
The Judge, Principal Sub Court,
Tenkasi.

+1 CC to M/s.G. PRABHU RAJADURAI, Advocate (SR-15215[F] dated 28/08/2020)

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