

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2021

C O R A M

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.(PD) No.328 of 2021

Govindarajan ... Petitioner

Vs.

1. P.M. Jinna Bai,

2. Samima Bivi ... Respondents

Prayer: This Civil Revision Petition filed under Article 227 of the Constitution of India praying for to direct the District Munsif Court, Madurantagam, to return the plaint in O.S. No.185 of 2009 on its file in accordance with Law and by proper return of the petitioner for presenting the same before the Sub-Court, Madurantagam.

For Petitioner

... Mr.K. Govi Ganesan

For Respondents

... No Appearance

ORDER

The Civil Revision Petition has been filed under Article 227 of the Constitution of India praying for to direct the District Munsif Court, Madurantagam, to return the plaint in O.S. No.185 of 2009 on its file in accordance with Law and by proper return of the petitioner for presenting the same before the Sub-Court, Madurantagam.

2. The case of the petitioner is that the the plaintiff/petitioner herein had filed a suit in O.S. No.185 of 2009 on the file of the District Munsif Court, Madurantagam seeking for a permanent injunction restraining the defendants/respondents herein from interfering with the plaintiff's / petitioner peaceful possession and enjoyment of the suit property. In the meanwhile, the plaintiff/petitioner herein has filed I.A. No.1491 of 2016 on its file to amend the plaint in the stage of completion of P.W.1's examination. The aforesaid application was dismissed by order dated 30.09.2016 on the ground that the plaintiff/petitioner herein has raised a new fact, new cause of action and introduced new relief than the one prayed for in the suit. Further, amendment sought by the petitioner lacks bonafide and the I.A. has been filed to drag on the

proceedings. Challenging the aforesaid order, the plaintiff/petitioner herein filed C.R.P.(PD) No.4002 of 2016 before this Court. This Court by order dated 23.02.2018 allowed the same. After amending the plaint, the value of the suit property was calculated at Rs.2,99,375/-. According to the value of the suit property, the additional Court fee was also paid by the petitioner herein accordingly. However, at the same time, in the event of the value of the suit property is beyond the jurisdiction of the District Munsiff, Madurantakam, the suit could not be tried before the District Munsif, Madurantakam. Hence, the Court below returned the plaint by order dated 20.07.2018 without any seal and signature of the presiding Judge for filing the same before the appropriate Court within one month from the date of return of the plaint. Being aggrieved of the return of the plaint without seal and signature of the Presiding Judge, the plaintiff/petitioner has filed the present Civil Revision Petition for his relief as prayed in the petition.

3. The learned counsel for the petitioner would submit that the Court below without affixing the signature of the Presiding Judge has returned the plaint and with the said defect, the plaint cannot be

presented before the Sub-Court, Madurantagam. If the plaint was returned immediately after carrying out the amendment on 06.07.2018 and the additional Court Fees was also paid, the defect would not have arisen. Without considering the above, the learned Judge returned the plaint without signature and seal of the Court concerned without following the procedure of return of plaint. Hence, this Court may direct the Court below to return the plaint in O.S. No.185 of 2009 on its file in accordance with law enabling to present the same before the Sub-Court, Madurantagam.

4. Heard, the learned counsel appearing for the petitioner as well as perused the material available on record.

5. On a perusal of the record, it is seen that the plaint has been returned by the Court below since the value of the suit is beyond the jurisdiction of it. However, in the Docket order dated 20.07.2018 it has been directed by the Presiding Judge as follows:

“ On perusal of the records, the total value of the suit property is Rs.2,99,375/- Thereby the same exceeds the jurisdiction of this Court to try the suit as per Act 1/2004. Accordingly, the plaint is returned for filing the same before

the appropriate Court within one month from the date of return of the plaint”.

Even though the aforesaid Docket order dated 20.07.2018 passed by the presiding Judge, there is no signature affixed by the learned Judge who have passed the order and no affix of the Seal of the Court below concerned is found. Without the signature and seal in the specific Docket order, the plaintiff/petitioner herein cannot present the plaint before the Sub-Court, Madurantagam. Hence, this Court directs the plaintiff/petitioner herein to re-present the plaint before the Court below for it to affix the Signature of the presiding Judge. Accordingly, the Court below is directed to accept the aforesaid plaint and return the same in accordance with the procedure established as per Law by the Court as early as possible to the petitioner herein to enable him to proceed further.

6. With the above directions, the Civil Revision petition is disposed of. Consequently, connected miscellaneous petition is closed if any. No costs.

24.02.2021

Lbm

Index: Yes/No.

Speaking/Non-Speaking order

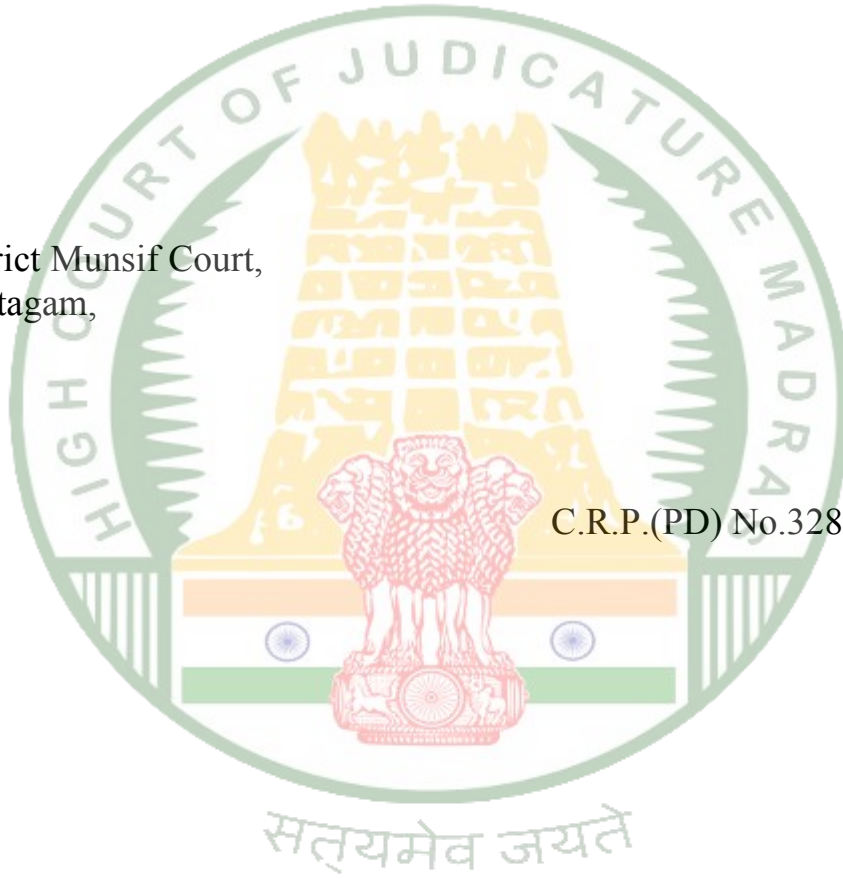
Internet: Yes/No.

C.R.P.(PD) No.328 of 2021

V.BHAVANI SUBBAROYAN, J.,

lbm

To:
The District Munsif Court,
Madurantagam,



C.R.P.(PD) No.328 of 2021

WEB COPY

24.02.2021