



C.R.P.(PD).No.2510 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

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G.Kumaraguru

.. Petitioner

Vs.

Narayanasamy

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to direct the learned Principal District Judge, Puducherry to take on the file of the returned numbered suit bearing O.S.Sr.No.528 of 2018 and to number the suit.

For Petitioner : Mr.T.Gowthaman

ORDER

Challenge in this Revision is to the return endorsement made by the learned Principal District Judge, Puducherry before numbering the plaint. Hence, notice to the respondent is deemed unnecessary.

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2. The suit for partition, filed by the plaintiff, who claimed that he has purchased 5/6th share of the other sharers, one of whom is his father, was returned by the Court, on the ground that his father is still alive and therefore, he has no right to seek partition.

3. A perusal of the plaint and the return endorsements make it very clear that the learned learned Principal District Judge, Puducherry has either not applied his mind or misunderstood the entire law relating to partition. The plaintiff claims that the property belonged to his grandfather Nagamani and five out of six of his heirs including the father of the plaintiff had sold their shares to the plaintiff and the defendant owns the remaining 1/6th share. Therefore, the plaintiff as a purchaser of undivided interest in the immovable property seeks partition. The learned learned Principal District Judge, Puducherry seems to be under a impression that the plaintiff claims partition as a heir of Nagamani and has made the returns.

4. It is quite obvious that the return of the plaint on the said ground is illegal. Hence, this Civil Revision Petition is **allowed**. The return



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endorsements of the learned Principal District Judge, Puducherry dated 07.08.2018, 31.08.2018 and 20.09.2018 are set aside. The learned Principal District Judge, Puducherry is directed to number the suit subject to other requirements being fulfilled and proceed with the suit in accordance with law. No costs.

5. The original plaint is directed to be returned to the counsel for the petitioner to enable him to re-present it. The learned counsel to re-present the plaint within a period of four (4) weeks from the date of receipt of the plaint from the Registry.

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dsa

Index : No

Internet : Yes

Speaking order

To

The Principal District Judge, Puducherry.

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R.SUBRAMANIAN, J.

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