



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2021

CORAM :

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P.No.2000 of 2021

Jayamma

... Petitioner

Vs

1.Lakshamma
2.T.Rajendra
3.Dhanalakshmi
4.Aruna
5.Karthick
6.Indirani
7.T.Srinivasan
8.Lakshmi Narayanan
9.Muniratha
10.Praba @ Prabavathi
11.M.Ramamani
12.R.Varalakshmi
13.V.Sivarudhrappa
14.C.Abbaiah
15.S.Sakthivel
16.N.Manjunath
17.M.Munivenkatappa
18.Gnanasekar
19.Murugesh
20.Nagamma

... Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India praying to direct the Learned Principal District Judge at Krishnagiri to number the Suit filed in Unnumbered O.S.No.SR550 of 2021 by allowing the present Civil Revision Petition.

For Petitioner : Mr.R.Jayaprakash.



O R D E R

This Civil Revision Petition has been filed for seeking direction to the Learned Principal District Judge, Krishnagiri to number the Suit filed in O.S.No.SR550 of 2021.

2.The Learned Counsel for the Petitioner submitted that the Petitioner filed the aforesaid Suit seeking partition of the Suit schedule property into five equal shares and allot 1/5th share. There are also other reliefs seeking to declare the partition deed dated 30.09.2010 as null and void and sale deeds and gift deeds to be declared as null and void executed from the year 2010 to 2021.

3.The Principal District Court, Krishnagiri, on 02.09.2021, on going through the plaint averments found that the Petitioner is a party to the Partition deed dated 30.09.2010 and made a return stating that when the Petitioner is a party to the Partition deed, how can she maintain the Suit, after a period of eleven years. It is replied by the Petitioner that she came to know about the registered Partition deed dated 30.09.2010 only on 10.08.2021 and therefore, the Suit is filed in time. There are other returns as well with regard to payment of Court-fee and that was also answered. The grievance of the Learned Counsel for the Petitioner is that the Court has no right to make such return, especially when the earlier return was complied by giving reasons for filing the Suit.

4.Considered the submissions made by the Learned Counsel for the Petitioner. It is seen that the plaint was returned indicating the Petitioner cannot maintain the Suit when she is a party to the Partition deed dated 30.09.2010 and after eleven years executing the Partition deed. There are other grounds with regard to payment of Court-fee under Section 40 of the Tamil Nadu Court Fee Act.

5.Of course, the Court is entitled to make these returns. However, once returns have been complied stating the Petitioner's position, then, it is for the Court to take a decision to number the plaint, when there is proper cause of action and when it is not barred by any law and when the Suit is properly valued and proper Court-fee is paid. Otherwise, if the plaint falls under any of the grounds for rejection of plaint



under Order VII Rule 11 of Civil Procedure Code, the Learned Judge is entitled to reject the plaint. Repeated return of the plaint is not a solution to the issue. Therefore, the Learned Principal District Judge, Krishnagiri is directed to pass appropriate orders.

6. Accordingly, this Civil Revision Petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS-VI)

// True Copy //

Sub Assistant Registrar

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To

The Principal District Court,
Krishnagiri.

Copy to

The Section Officer, VR Section, High Court, Madras.

+1CC to M/s.R.Jayaprakash, Advocate, SR.No. 48253

C.R.P.No.2000 of 2021

MG(CO)

B.VC (22/10/2021)