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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2021

CORAM :

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P.No.2071 of 2021

V.M.Sivakumar

... Petitioner

Vs

1.Mrs.Suguna
2.Mr.Baskar
3.Renuka

... Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India to direct the Learned District Munsif, Poonamallee to number and taken on file the unnumbered O.S.SR.No.1890 of 2021 on the file of the Learned District Munsif Court at Poonamallee.

For Petitioners : Mr.K.Sadhanathan

O R D E R

This Petition is filed seeking direction to the Learned District Munsif, Poonamallee to take on file the unnumbered O.S.SR.No.1890 of 2021.

2.The Learned Counsel for the Petitioner submitted that the Petitioner filed a Suit against the Respondents seeking the following reliefs;

"(a)for a mandatory injunction directing the defendants to remove the unlawful compound wall put up and encroached by the deceased father of the defendants in respect of the suit schedule property.

(b)for a permanent injunction restraining the defendants, their men, agents, servants or any one acting on their behalf claiming through them in any manner interfering with the plaintiff's peaceful possession and enjoyment of the suit property.

(c)directing the defendants to pay the cost of the suit."

The Plaint was returned by the Learned District Munsif, Poonamallee by raising seven queries. Main among them is how the mandatory injunction is maintainable without declaration to be clearly explained. This return along with other returns were complied by the Petitioner. Despite that Plaint was returned repeatedly, by raising the same queries which were made on 25.03.2021.



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3.It is seen from the compliance of return, the Petitioner explained that the Petitioner has documents of title to show ownership and therefore, there is no necessary to seek relief of declaration and other returns had also been complied with.

4.If the returns had been complied with, it is not necessary for the Court to repeatedly make return of Plaint reiterating the same points again and again. If the Plaint is in order, the Court has no option except to number the Plaint and proceed with the matter. If the Plaint suffered from any defect as per Order VII Rule 11 of Civil Procedure Code, it is open to the Court to reject the Plaint.

5.Therefore, the Learned District Munsif, Coimbatore is directed to number the Plaint, if the Plaint is in order or reject the Plaint if it is affected by any of the grounds covered under Order VII Rule 11 of Civil Procedure Code.

6.Accordingly, this Civil Revision Petition is disposed of. No costs. Original Plaint is directed to be returned to the Learned Counsel for the Petitioner for presenting the same before the Learned District Munsif, Poonamallee.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ay/ep
To

The District Munsif,
Poonamallee.

Copy to:
The Section Officer,
VR Section,
High Court, Madras

+1 cc to Mr.M.Saravanakumar, Advocate Sr.NO. 50918
C.R.P.No.2071 of 2021
A.SK(08.11.2021)