



CRP (NPD) No.2457 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (NPD) No.2457 of 2021
and CMP No.18597 of 2021

S.Selvarani

... Petitioner

Vs

1. Palanisamy
2. Devaraj
3. Kaviarasan

... Respondents

Prayer: The Civil Revision petition filed under Article 227 of Constitution of India, against the docket order, dated 07.09.2021 in unnumbered O.S.(Sr).No.333 of 2021 passed by the learned Subordinate Judge, Kangeyam and direct the learned Subordinate Judge, Kangeyam to number the plaint in the said O.S.(Sr) No.333 of 2021 and take the suit on file.

For Petitioner : Mr.S.Natarajan

ORDER

Since this revision is against the return of the plaint and the orders of the Subordinate Court is passed even before numbering of the suit, notice to the respondents is deemed unnecessary.



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2. The challenge in this revision is to return of the plaint made by the learned subordinate Judge, Kangeyam.

3. A perusal of the returns made by the learned Subordinate Judge shows that he has chosen to wear the hat of the defendants to scrutinise the plaint even before numbering. The suit is one for declaration of title of the plaintiff and for consequential injunction. Upon presentation, the suit was returned on 06.07.2021 with the following endorsement:

- i. Market Value as per sale deed is Rs.10,46,000/-. So that exceed of this Court jurisdiction, to be presented before proper Court.*
- ii. Relief sought for in the prayer is contra to the pleadings.”*

4. The plaint was represented explaining those two issues showing that the value of the subject matter of the suit is only Rs.9,58,730/-. Again the plaint was returned on 12.07.2021 with the following endorsement:

“How the suit is maintainable without prayer of rectification in the sale deed?”



5. Again the counsel represented the plaint explaining the maintainability of the suit. The copies of the Judgments in support of the maintainability of the suit were also filed. Again the plaint was returned on 07.09.2021 with the following endorsement:

1. *When the revenue records does not confer title, how the suit is maintainable. Explain.*

6. The above conduct of the learned Subordinate Judge shows that he is oblivious of the scope or power to examine the plaint before numbering. This Court in ***Selvaraj Vs Koodankulam Nuclear Power Plant India Limited, Rep. through its Project Director*** reported in ***(2021) 5 MLJ 467*** has laid down the procedure to be followed by the Courts while returning plaints. If only the learned Subordinate Judge has gone through the said Judgment, these kind of unwarranted returns would not have been made by the learned Subordinate Judge. I am clearly of the opinion that the orders of the return of plaint made by the learned Subordinate Judge are in the face of the legal provisions, beyond the powers of the Court.



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7. In view of the above, the orders of the return of plaint are set aside and the learned Subordinate Judge, Kangeyam is directed to number the suit and proceed with the same in accordance with law laid down in ***Selvaraj Vs Koodankulam Nuclear Power Plant India Limited, Rep. through its Project Director*** reported in ***(2021) 5 MLJ 467***, supra. The counsel for the petitioner is directed to represent the original plaint within 15 days from the date of receipt of a copy of this order.

8. This Civil Revision Petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

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vum

Index: Yes/No

Speaking order / Non speaking order

To:

The Subordinate Judge, Kangeyam.

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R.SUBRAMANIAN, J.

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