



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2021

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P(MD)No.287 of 2021

1) Dr.R.Maheswari

2) Dr.T.Upasana

3) R.Chinnathai

... Petitioners/Plaintiffs

vs.

1) S.Sundar Chandra

2) The Sub Registrar,
O/o Sub Registrar,
Cumbum.

3) The Sub Registrar,
O/o Sub Registrar,
Othakadai.

4) The District Collector,
Theni District.

5) The District Collector,
Madurai District.

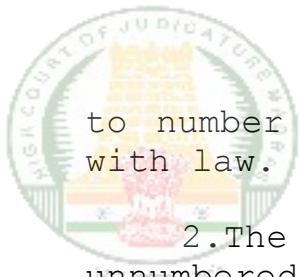
... Respondents/Respondents

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the docket order dated 25.01.2021 in unnumbered OS.839 of 2020, CNR:TNT4050007192020 on the file of the Sub Court, Uthamapalayam, and to direct the learned Sub Judge, Uthamapalayam to number it and to proceed with the same in accordance with law.

For Petitioners : Mr.R.Suriya Narayanan

ORDER

This Civil Revision Petition has been filed by the petitioners to set aside the docket order dated 25.01.2021 in unnumbered OS.839 of 2020, CNR:TNT4050007192020 on the file of the Sub Court, Uthamapalayam, and to direct the learned Sub Judge, Uthamapalayam,



to number the plaint and to proceed with the same in accordance with law.

2.The revision petitioners as plaintiffs filed the above unnumbered suit against the respondents/defendants for declaration and mandatory injunction and other reliefs. The Court below returned the plaint on two occasions for rectifying certain defects and after compliance, the plaint was re-presented. However, again, by impugned return dated 25.01.2021, the Court below has returned the plaint stating that the prayer to declare the alleged sale dated 05.11.2020 in Document No.6342/2020 registered on the file of the 3rd defendant/Sub Registrar, Othakadai, Madurai is with regard to the property situated in Madurai and therefore, the Sub Court at Uthamapalayam has no territorial jurisdiction to try the suit. As against that return, this revision petition has been filed.

3.The learned counsel for the petitioners would state that the Court below ought to have numbered the plaint and only then, it can decide the maintainability of the suit as preliminary issue, whereas, it refused to number the plaint which is unsustainable. He would further state that the suit properties consisting of two items, one is situated in Othakadai, Madurai District, and another one is in Cumbum, Theni District and therefore, as per Section 17 CPC, the petitioner can file suit in any Court within whose local limits of jurisdiction any portion of the suit property is situated, as such, the Sub Court at Uthamapalayam has jurisdiction to try the suit. Thus, he would pray to set aside the return and would pray for a direction to the learned Judge to number the plaint. In support of his contentions, he would rely on the judgment of the Hon'ble Supreme Court in Shivnarayan (D) by LRs vs. Maniklal (D) through LRs and others (Civil Appeal No.1052 of 2019 dated 06.02.2019).

4.Heard the learned counsel for the petitioners. In view of the order going to be passed, notice to the respondents is not necessary.

5.Perusal of record shows that the learned Judge returned the plaint stating that the prayer to declare the alleged sale dated 05.11.2020 in Document No.6342/2020 registered on the file of the 3rd defendant/Sub Registrar, Othakadai, Madurai is with regard to the property situated in Madurai and therefore, the Sub Court at Uthamapalayam has no territorial jurisdiction to try the suit. The learned counsel for the petitioners would rely upon the decision of the Apex Court in Shivnarayan (D) by LRs vs. Maniklal (D) through LRs and others (Civil Appeal No.1052 of 2019 dated 06.02.2019) and stated that as per Sections 16 and 17 CPC, when the properties are situated in the jurisdiction of different



courts, then in any Court within whose local limits of jurisdiction any portion of the property or one or more properties is situated, the petitioner can file the suit. In this regard, it is relevant to extract below paragraph 28 of the above judgment:-

WEB COPY

28. Sections 16 and 17 of the C.P.C. are part of the one statutory scheme. Section 16 contains general principle that suits are to be instituted where subject-matter is situate whereas Section 17 engrafts an exception to the general rule as occurring in Section 16. From the foregoing discussions, we arrive at following conclusions with regard to ambit and scope of Section 17 of C.P.C.

(i) The word property occurring in Section 17 although has been used in singular but by virtue of Section 13 of the General Clauses Act it may also be read as plural, i.e., properties.

(ii) The expression any portion of the property can be read as portion of one or more properties situated in jurisdiction of different courts and can be also read as portion of several properties situated in jurisdiction of different courts.

(iii) A suit in respect to immovable property or properties situate in jurisdiction of different courts may be instituted in any court within whose local limits of jurisdiction, any portion of the property or one or more properties may be situated.

(iv) A suit in respect to more than one property situated in jurisdiction of different courts can be instituted in a court within local limits of jurisdiction where one or more properties are situated provided suit is based on same cause of action with respect to the properties situated in jurisdiction of different courts.''

6. Thus, it is clear that a suit in respect to immovable property or properties situate in jurisdiction of different courts may be instituted in any court within whose local limits of jurisdiction, any portion of the property or one or more properties may be situated. In the present case, the suit properties consisting of two items situate in Cumbum and Madurai respectively and as per Section 17 CPC, the petitioner can file suit in any jurisdictional courts of both the places and therefore, the learned Sub Court, Uthamapalayam is having territorial jurisdiction as per Sections 16 and 17 CPC. Accordingly, the impugned return is liable to be set aside and accordingly set aside. The learned Sub Judge, Uthamapalayam, is directed to number the suit and proceed further in accordance with law.



7.With the above direction, this Civil Revision Petition is allowed. No costs.

WEB COPY

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

bala/gns

Note: 1.Registry is directed to return the original plaint (unnumberd) i OS.839 of 2020, CNR:TNT4050007192020 to the counsel for the petitioner after getting attesting copies of same.

To

The Sub Judge,
Uthamapalayam,
Theni District.

Copy to

The Section Officer,
ER Records,
Madurai Bench of Madras High Court,
Madurai.

ORDER MADE IN
C.R.P (MD) No.287 of 2021
DATED 04.03.2021

VB (04/05/2021) 4P / 3C