



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2021

CORAM

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P (PD) (MD)No.337 of 2021

Tmt.Vennila

... Petitioner

vs.

1.S.Maharajan

2.S.Pavur

3.S.Saravanamuthu

... Respondents

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the District Munsif Court, Natham to number the plaint in O.S.SR.No.42 of 2020 and try the same in accordance with law.

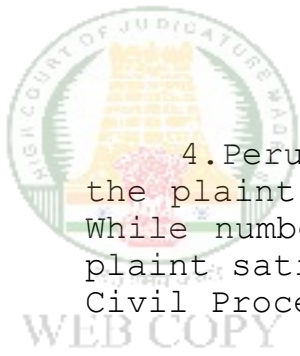
For petitioner : Mr.D.Sadiq Raja

ORDER

This Civil Revision Petition has been filed to direct the District Munsif Court, Natham to number the plaint in O.S.Sr.No.42 of 2020.

2.The petitioner/plaintiff filed the above suit in O.S.SR.No.42 of 2020 for the relief of partition of the suit properties and until the relief of partition is granted, sought for permanent injunction. Initially, the Court below returned the plaint raising 8 queries and after compliance, the plaintiff re-presented the plaint. Thereafter, the court below returned the plaint stating that as per Document No.1, the plaintiff is not in possession of the suit property and therefore, the suit is maintainable without the prayer of partition. The petitioner re-presented the plaint stating that as per the judgment in 2003 (3) LW 255, the suit is maintainable. Even thereafter, the Court below returned the plaint citing the same return. Hence, this revision petition.

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



4.Perusal of record shows that the learned Judge has returned the plaint from 18.11.2020 onwards by stating some or other reason. While numbering the suit, the learned Judge has to see whether the plaint satisfies the ingredients set out under Order 7 Rule 1 of the Civil Procedure Code which reads as follows:-

'1.Particulars to be contained in plaint.--- The plaint shall contain the following particulars ---

(a) the name of the Court in which the suit is brought;

(b) the name, description and place of residence of the plaintiff;

(c) the name, description and place of residence of the defendant, so far as they can be ascertained;

(d) where the plaintiff or the defendant is a minor or a person of unsound mind, a statement to that effect, and in the case of a minor, a statement regarding his age to the best of the knowledge and belief of the person verifying the plaint;

(e) the facts constituting the cause of action and when it arose;

(f) the facts showing that the Court has jurisdiction;

(g) the relief which the plaint claims;

(h) where the plaintiff has allowed a set-off or relinquished a portion of his claim, the amount so allowed or relinquished; and

(i) a statement of the value of the subject matter of the suit for the purpose of jurisdiction and of court-fees, so far as the case admits.

Provided that, where owing to the large number of defendants or any other sufficient reason, it is not practicable to ascertain with reasonable accuracy the age of the minor defendant, it may be stated that the age of the minor defendant is not known.'

5.If the ingredients under Order 7 Rule 1 of the Civil Procedure Code are satisfied on the face of the plaint as stated by the plaintiff, then the plaint has to be numbered and proceeded in the manner known to law. The plaint cannot be returned questioning the merits of the case. Therefore, the learned District Munsif, Natham, is directed to number the suit and take the plaint in O.S.SR.No.42 of 2020 on file and dispose of the same in accordance with law.



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

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// True Copy //

Sd/-

Assistant Registrar(W)

/ /2021

Sub Assistant Registrar(CS)

bala/gns

Note: 1. Registry is directed to return the original plaint (unnumbered) in OS.Sr.No.42 of 2020 to the counsel for the petitioner after getting attesting copies of same.

2. In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

The District Munsif,
Natham.

+1 CC to M/s.D.SADIQ RAJA, Advocate (SR-8727[F] dated 04/03/2021)

C.R.P (PD) (MD)No.337 of 2021

DATED : 04.03.2021

RRS (10.05.2021) 3P 3C