



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.03.2021

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WEB COPY

THE HONOURABLE **MRS.JUSTICE J.NISHA BANU**

C.R.P. (MD)No.370 of 2021

N.S.Marimuthu

... Petitioner/Plaintiff

Vs.

1.Sundaravalli
2.Sankararama Subramaniyan
3.Mahalakshmi
4.The Branch Manager,
Tamil Nadu Mercantile Bank,
Vembar Branch, Vialthukulam,
Thoothukudi District.

... Respondents/Defendants

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the docket order of the learned Subordinate Judge, Kovilpatti in unnumbered plaint in O.S.No. of 2021 on the file of the Sub Court, Kovilpatti by ordering notice to the respondents to decide the maintainability of the suit by suo-moto converting the unnumbered plaint as interlocutory application No.45 of 2021 dated 09.02.2021.

For Petitioner

: Mr.C.Selvakumar

ORDER

This civil revision petition has been filed to set aside the docket order of the learned Subordinate Judge, Kovilpatti in unnumbered plaint in O.S.No. of 2021 on the file of the Sub Court, Kovilpatti by ordering notice to the respondents to decide the maintainability of the suit by suo-moto converting the unnumbered plaint as interlocutory application No.45 of 2021 dated 09.02.2021.

2.The learned counsel for the petitioner submitted that the petitioner filed the suit for declaration and mandatory injunction. However, the learned Judge, instead of numbering the suit, converted the same as interlocutory application and posted the same for maintainability. Aggrieved over the same, the present civil revision petition has been filed.

3.The learned Judge finding some issues on the maintainability, has directed the matter to be posted for maintainability and interlocutory application number has also been given and issued



notice and posted the same for maintainability. It is not known as to how the learned Judge has given I.A. number rather than the learned Judge ought to have numbered the suit and the maintainability of the suit can be decided as preliminary issue. The learned Judge converted the suit as interlocutory application to decide the maintainability of the suit. The learned Judge has to see whether Order 7 Rule 1 CPC., has been complied with or not and if it is complied with, the learned Judge shall number the suit and thereafter, decide other issues as preliminary issue. Therefore, the Docket Order is set aside and the matter is remanded back to the file of the learned Subordinate Judge, Kovilpatti and the learned Judge is directed to verify whether Order 7 Rule 1 has been complied with or not and number the suit, after issuing notice to the respondents. The maintainability of the case can be dealt with as preliminary issue.

4. With the above observation, this civil revision petition is disposed of. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

gns

NOTE: 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 Subordinate Judge, Kovilpatti.

+1 CC to M/s.C.SELVAKUMAR, Advocate (SR-9265[F] dated 05/03/2021)

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