



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :25.03.2021

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P (MD) .No.567 of 2021

WEB COPY

V.Raju

... Petitioner/Plaintiff

Vs.

1.Murugan
2.Pitchaiammal
3.Sankar
4.Alagar
5.Vellaiaimmal
6.Dhanalakshmi
7.Angammal
8.Pitchai
9.Pandhaiaimmal
10.V.Chinnaiah
11.A.Pandhan
12.A.Muthuveeran
13.Thangaraj
14.T.Chitradevi
15.Murugesan
16.Umadevi
17.G.Chitradevi
18.Sangari
19.Amsam
20.Sumathi
21.Dhanalakshmi
22.Dhineshkumar
23.Karthick
24.Malarveli
25.David Arockia Selvaraj
26.Vimala Esthar
27.Nagarajan
28.Nageswari
29.The Commissioner
Dindigul Municipality Corporation
Dindigul

... Respondents / Defendants

PRAYER:- This Civil Revision Petition has been filed under Article 227 of the Constitution of India, to direct the Principal Sub-Judge, Dindigul to number the unnumbered suit in O.S. which was filed by the petitioner/plaintiff on 01.03.2021 pending on the file of the Principal Sub Court, Dindigul, as unnumbered.

For petitioner : Mr.V.Lakshmanan



ORDER

This Civil Revision Petition has been filed to direct the Principal Subordinate Judge, Dindigul to number the unnumbered suit which was filed by the petitioner/plaintiff on 01.03.2021.

2.The revision petitioner is the plaintiff and the respondents are defendants in unnumbered suit on the file of learned Principal Subordinate Judge, Dindigul. The suit is for the relief of partition and for declaration reliefs. In this circumstance, the learned Judge has returned the plaint on various grounds. Hence, the present revision petition has been filed.

3.Heard the learned counsel for the petitioner and perused the materials available on record.

4.Perusal of record shows that the learned Judge had returned the plaint on the ground that the suit has to be valued on the basis of the market value of the suit property and only if the market value fixed under Section 47(AA) of Indian Stamp Act 1899 is known to the Court and it is possible to find out whether the suit property is valued or not. This Court is of the view that while numbering the plaint, the learned Judge has to see whether the plaint is satisfied 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."

<https://hcservices.courts.gov.in/hcservices/> It is well settled that, if a litigant approaches the Court



and files the plaint in accordance with Order VII Rule 1 & 2 of Civil Procedure Code, then it is the duty of the Court to entertain the plaint and number the same and proceed further. The Court fee as stated by the plaintiff can be accepted and after numbering the same, notice be issued to the parties and on adjudication, if it is found that the petitioner has undervalued the property, the plaintiff may be called upon to pay the deficit Court fee or the same may be returned to be filed before the appropriate forum. Therefore, considering the facts and circumstances of the case, the learned Principal Subordinate Judge, Dindigul, is directed to number the suit and after notice to the defendants, proceed with the same in accordance with law.

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

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

msa

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 Principal Subordinate Judge
Dindigul

+1 CC to M/s.V.LAKSHMANAN, Advocate (SR-13676[F] dated 25/03/2021)

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25.03.2021

CN(07.05.2021) 3P 3C