



WEB COPY

C.R.P(MD).No.811 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.06.2021

CORAM:

THE HONOURABLE **MR. JUSTICE N.ANAND VENKATESH**

C.R.P(MD) .No.811 of 2021

S.Sathian

... Petitioner

Vs.

1.S.Veerappan

2.VR.Sivasamy

3.VR.Chithra

4.VR.Umayal

5.VR.Kalyani

6.VR.Lakshmi

7.KA.Chinniah

8.The Sub Registrar,
Devakottai,
Sivagangai District.

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to call for the records and set aside the returns dated 17.04.2021 made in O.S.SR.No.1021 of 2021 on the file of the learned Principal District Munsif, Karaikudi and direct the trial Court to number the suit thereby allow this Civil Revision Petition.

For Petitioner : Mr.S.Srinivasa Raghavan

O R D E R

This Civil Revision Petition has been filed aggrieved by the return endorsement made by the Court below dated 17.04.2021 and for a consequential direction to the Court below to take the plaint on file and number the suit.

2. The petitioner has filed a suit for specific performance and also for other reliefs. The suit came to be filed during March 2021 and right from March 2021 upto 17.04.2021, the Court below has been



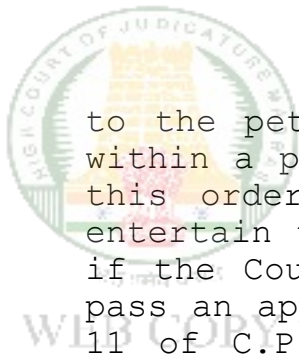
repeatedly returning the plaint with almost similar endorsements that the suit may be barred by limitation.

3. Mr.Srinivasa Raghavan, learned counsel appearing for the petitioner submitted that the plaintiff has clearly explained regarding the delay in filing the suit at paragraph No.8 of the plaint and has also clearly explained the cause of action for filing the suit at paragraph No.12 of the plaint. The learned counsel submitted that the Court below has entertained a doubt with regard to the maintainability of the suit on the point of limitation. Therefore, if the Court below is not inclined to entertain the suit, the Court has to reject the plaint by passing an appropriate order under Order VII Rule 11 of C.P.C. Only if such an exercise is undertaken, the petitioner can atleast work out his remedy by filing an appeal. However, in the present case, the Court below is repeatedly returning the plaint and every time, the plaint is re-presented by giving an explanation as to how the suit is on time and there is a cause of action for maintaining the suit. The learned counsel, therefore, submitted that the petitioner, left with no other option, has approached this Court seeking for appropriate directions.

4. In the considered view of this Court, the Court below has been repeatedly using the word "return of the plaint". The Code of Civil Procedure deals with return of plaint under Order VII Rule 10 of C.P.C and it specifically provides the reason for which the plaint can be returned at any stage of the suit. Obviously, in the present case, the reasons assigned by the Court below does not fall within the parameters for return of the plaint.

5. Going by the tenor of the return endorsement made by the Court below, it seems that the Court below has entertained a doubt on the maintainability of the suit, on the issue of limitation. As contended by the learned counsel appearing for the petitioner, the petitioner has explained the issue of limitation and also the cause of action for filing the suit. If after considering the same, the Court below is not inclined to entertain the suit and wants to reject the same, it has to exercise the jurisdiction under Order VII Rule 11 of C.P.C and pass an order by assigning reasons for rejection of the plaint. If any such order is passed by the Court below, the same will assume the character of a decree under Section 2(2) of C.P.C. If the petitioner is aggrieved by the same, it will be left open to the petitioner to challenge by way of filing an appeal under Section 96 of C.P.C. The case has not reached this stage, since the Court below has not rejected the plaint. Virtually, the petitioner is in a no man's land where he is neither able to prosecute the suit before the Court below nor is he able to exercise his right of appeal, since the plaint has not been rejected.

6. In view of the above discussion, there shall be a direction



to the petitioner to re-present the plaint before the Court below within a period of two weeks from the date of receipt of a copy of this order. The Court below, on receipt of plaint, shall either entertain the plaint on the basis of the pleadings found therein or if the Court below is not inclined to entertain the plaint, shall pass an appropriate order rejecting the plaint under Order VII Rule 11 of C.P.C by assigning proper reasons. This exercise shall be completed by the Court below within a period of four weeks from the date of re-presentation of the plaint by the petitioner.

7. This Civil Revision Petition is disposed of with the above directions. No costs.

8. Registry is directed to return the original plaint to the learned counsel for the petitioner in order to enable the petitioner to re-present the plaint before the Court below. Registry shall retain a copy of the plaint for record purpose.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ssb

To

Principal District Munsif, Karaikudi.

Copy to:

The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

Order made in
C.R.P (MD) .No.811 of 2021

Dated:
03.06.2021

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