



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2021

CORAM :

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (MD) No.1020 of 2021

P.Lasar

... Petitioner/Plaintiff

vs.

1.The Block Development Officer
(Village Panchayat),
Manachanallur Panchayat Union,
Manachanallur Taluk,
Trichy District.

2.The Revenue Tahsildar,
Taluk Office,
Manachanallur Taluk,
Trichy District.

3.The Revenue Divisional Officer,
Lalgudi Taluk,
Trichy District.

4.The District Collector,
Trichy District,
Trichy.

... Respondents/Defendants

PRAYER:- This Petition is filed under Art. 227 of the Constitution of India, to issue a direction to the learned District Munsif, Lalgudi to taken on file and number the unnumbered O.S.SR.No.6992 of 2019 on the file of the District Munsif Court, Lalgudi.

For Petitioner : Mr.N.Marimuthu

ORDER

The plaintiff has invoked the jurisdiction of this Court under Article 227 of the Constitution of India seeking a direction to the learned District Munsif, Lalgudi to number the suit.

2.The petitioner herein has filed a suit in O.S.SR.No.6992 of 2019 for declaration that the 5th Item of the suit property is the property of the plaintiff, for consequential injunction restraining the defendants from interfering with the plaintiff's peaceful possession and enjoyment of the suit property and to declare that the order of the 4th respondent dated 28.06.2019 is null and void.

3.The suit schedule property comprised of five items of property. The plaintiff in support of his claim has filed 8 documents. The suit was filed on 27.09.2019. The learned District



Munsif, Lalgudi had returned the papers for the following compliances:-

"1. Already Hon'ble High Court has dismissed the writ petition for the same prayer and as per the dismissal of the writ petition, the present notice by the 4th respondent has been issue and hence, how the suit is maintainable as per the writ petition for the same prayer as to be stated.

2. Any documents to corroborate that SF.557/11 and 557/1 belongs to the plaintiff.

3. The order of High Court writ petition to be filed if represented.
Time one month."

4.The same was represented by the plaintiff on 03.10.2019. The same was returned on various dates starting from 04.10.2019 and ultimately, on 23.03.2020, the learned District Munsif, Lalgudi had returned the papers for the following compliance:-

"Previous Audit not complied. Hence returned.
Time one month."

5.This order has been challenged by the plaintiff. The learned counsel appearing on behalf of the plaintiff would submit that all the papers showing the plaintiff's title and possession have been filed along with the plaint. The learned Judge has totally overlooked the same. That apart, there is total non application of mind on the part of the learned District Munsif, Lalgudi, since the first return dated 27.09.2019 has been complied with and represented the same by the plaintiff on 03.10.2019. It has not at all been taken note of by the learned District Munsif, Lalgudi. In these circumstances, he would seek a direction to the learned District Munsif, Lalgudi to number the suit.

6.Heard the learned counsels and perused the records.

7.Perusal of the retuned plaint would show that on 27.09.2019, the learned Judge had returned the suit asking as to how the suit was maintainable when a writ petition for the same prayer has been filed and also to provide the documents to corroborate the title of the plaintiff to the property and also to enclose the order of the High Court. This very return shows the total non application of mind on the part of the learned Judge. The list of documents filed clearly show that the document at Serial No.6 is the order passed in the writ petition. The documents at Serial Nos.1 to 5 have been filed to show the title of the plaintiff to the suit property. The same has been explained by the plaintiff while representing the papers. The learned District Munsif, Lalgudi has failed to pass any



orders for over a 6 months and finally, though the earlier return has been complied with, the papers have been returned once again stating that the previous order has not been complied with.

8.The question as to whether the plaintiff has title to the property and in possession of the same is an issue, which has to be considered during the trial and not at the stage of numbering the plaint. The Court while taking on file the plaint has to only consider whether the plaint contains the particulars provided under Order VII Rule 1 of the Code of Civil Procedure, whether the Court has the pecuniary and territorial jurisdiction to consider the suit and whether the plaint spells out a cause of action. The Court cannot sit in the armchair of the defendants when scrutinizing the plaint while numbering the same. Hence, the learned District Munsif, Lalgudi is directed to number the suit within a period of two weeks from the date of receipt of a copy of this order along with the plaint. Registry is directed to return the original plaint after obtaining necessary acknowledgment from the counsels.

9.In fine, the above Civil Revision Petition stands allowed. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

The District Munsif,
Lalgudi.

COPY TO:-

The Section Officer,
E.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1 CC to M/s.N.MARIMUTHU, Advocate (SR-34317[F] dated 12/11/2021)

C.R.P. (MD) No.1020 of 2021
12.11.2021

MMS (CO)

GC(29.11.2021) 3P 5C