



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2021

CORAM :

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (MD) No.1594 of 2021

Chellathai

... Petitioner/Plaintiff

vs.

- 1.Alwin
- 2.Raja
- 3.Murugesaperumal
- 4.M.J.Shaalika
- 5.Shanthi
- 6.Azhagu Bagavathi
- 7.Jeyakumar
- 8.Krishnan
- 9.Subbaiah

... Respondents 1 to 9/
Defendants 1 to 9

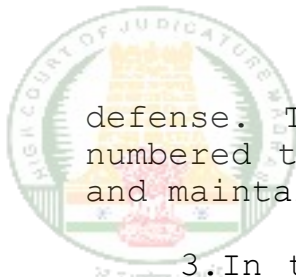
PRAYER:- This Petition is filed under Article 227 of the Constitution of India, to set aside the docket order dated 27.08.2021 made in unnumbered O.S.Filing No.127 of 2021 on the file of the Sub Court, Valliyoor and direct the Court below to number the same and decide the same on merits after giving due opportunities to all parties.

For Petitioner : Mr.A.Arumugam

ORDER

The above Civil Revision Petition is filed by the plaintiff, whose plaint in O.S.Filing No.127 of 2021 has been repeatedly returned by the learned Subordinate Judge, Valliyoor without numbering the same.

2.The learned counsel appearing for the petitioner would submit before this Court that despite re-presenting the plaint after duly complying with the returns, the learned Judge has repeatedly returned the same. The learned Judge had questioned the payment of Court fees under Section 25 (d) of the Tamil Nadu Court Fees and Suits Valuation Act, 1965. The learned Judge had also entertained a doubt about the maintainability of the very same suit. The learned Judge has overlooked the fact that the issue of Court fees can be considered even after the numbering of the suit and on the same being raised by the defendants. The learned Judge appears to have questioned the maintainability of the suit primarily on the issue of declaring the settlement deed as a sham and nominal one. These are the issues that have to be dealt with after the numbering of the suit and after the defendant enters appearance and raises such a



defense. The learned Subordinate Judge, Valliyoor, ought to have numbered the said applications keeping open the issue of Court fee and maintainability to be raised by the defendants.

3.In these circumstances, a direction is issued to the learned Subordinate Judge, Valliyoor, to number the unnumbered O.S.Filing No.127 of 2021, keeping open the issue of Court fee and maintainability and if the said defense is raised, to treat them as a preliminary issue.

4.This petition is allowed, accordingly. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

The Subordinate Judge,
Valliyoor.

+1 CC to M/s.A.ARUMUGAM, Advocate (SR-37101[F]
dated 02/12/2021)

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