



WEB COPY

C.R.P.(MD) No.1774 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.11.2021**

CORAM :

THE HONOURABLE MS.JUSTICE **P.T.ASHA**

C.R.P. (MD) No.1774 of 2021

and

C.M.P. (MD) No.9456 of 2021

S.C.Saminathan

... Petitioner

vs.

1.S.Arulraj

2.R.S.Gobinath

... Respondents

PRAYER:- This Petition is filed under Section 227 of the Code of Civil Procedure, to number the Order 7 Rule 11 of CPC application filed by the petitioner in unnumbered I.A.SR.No.7722 of 2021 in O.S.No.27 of 2021 pending on the file of the learned Principal District Judge, Karur.

For Petitioner : Mr.J.Senthil Kumaraiah

ORDER

This petition is filed seeking a direction to the learned Principal District Judge, Karur to number the unnumbered I.A.SR.No.7722 of 2021 in O.S.No.27 of 2021, which is filed by the defendant to register the plaint.

2.The suit in O.S.No.27 of 2021 has been filed by the plaintiffs for partition and separate possession of their 1/3rd share in the suit property. Though the suit is one for partition, it appears that the plaintiffs have filed I.A.No.1 of 2021 for a mandatory injunction to the respondents 2 and 3 to restore the domestic electricity service connection, which had been temporarily disconnected. Another I.A.No.2 of 2021 has been filed for an injunction restraining the defendant, his men, servants, agents etc. from encumbering, alienating the petition mentioned property, till the disposal of the suit. These applications appear to have been moved along with plaint.

3.The defendant on entering appearance had filed his written statement in the month of July, 2021. Thereafter, the defendant in the month of September, 2021, has filed an application under Order VII Rule 11 for rejecting the plaint. This petition has neither been returned by the learned Principal District Judge, Karur nor has it been numbered. Therefore, the revision petitioner is before this Court seeking direction to the learned Principal District Judge, Karur to number the said application.



4. When the matter came up today, this Court had directed the Registry to obtain a status report with reference to the numbering of the application. This response received from the learned Principal District Judge, Karur, would read as follows:-

"I submit that the suit for partition filed by one Arulraj and another Vs. S.C.Saminathan filed before this Court and taken on file and numbered as O.S.No.27 of 2021 on 05.02.2021 as per the reference 1st cited above.

I further submitted that the plaintiff has filed the mandatory injunction petition in I.A.01/2021 in O.S.27/2021 for restore the domestic electricity service connection in the suit mentioned property, which has been temporary disconnect based on the instruction from the 1st respondent along with the suit. This petition has been heard by the both sides and reserved for orders on 22.11.2021. In the meanwhile, petitioner/defendant has filed the rejection of the plaint Or.7, R.11 CPC petition in SR.No.7722 dated 21.09.2021, which has to be numbered after passing of orders in the I.A.01/2021 in O.S.27/2021."

5. The learned Principal District Judge, Karur had stated that the petition under Order VII Rule 11 of the Code of Civil Procedure can be numbered only after the disposal of the petition in I.A.No.1 of 2021. The response is nothing short of but being strange, since the suit in question is for partition and the defendant had taken out an application to reject the said plaint. Numbering of this petition has nothing to do with the enquiry or orders being pronounced in I.A.No.1 of 2021.

6. In these circumstances, this Civil Revision Petition is allowed. The learned Principal District Judge, Karur, is directed to number the I.A.SR.No.7722 of 2021 within a period of 1 week from the **date of production of this order copy by the petitioner/defendant, (*)if it is otherwise in order.** No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CRL SIDE)

**(*)Amended as per order of this Court
in CRP(MD).1774 of 2021, dated 22.11.2021**

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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

(*) to be substituted to the order already despatched on 19.11.2021.

The Principal District Judge,
Karur.

+1 CC to M/s.J. SENTHILKUMARAIAH, Advocate (SR-35271[F] dated 19/11/2021)

C.R.P. (MD) No.1774 of 2021
19.11.2021

ac (CO)

TR/skn (19.11.2021) 3P 3C

TR/skn (22.11.2021) 3P 3C