



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.02.2022

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P.(PD) (MD) No.182 of 2022

and

C.M.P.(MD) No.804 of 2022

C.Suresh

.. Petitioner/Plaintiff

-vs-

1.Donisha J.D.

2.The Branch Manager,
State Bank of India,
Kumarankudi Branch,
Chenkodi Post,
Kumarankudi Village,
Thiruvattar Taluk,
Kanyakumari District.

3.The Branch Manager,
State Bank of India, Kuzhithurai Branch,
Kuzhithurai Post, Vilavancode Taluk,
Kanyakumari District.

.. Respondents/Defendants

Prayer :- Petition filed under Article 227 of the Constitution of India to direct the District Munsif Court, Padmanabhapuram to number the unnumbered O.S.SR No.55 of 2022 dated 06.01.2022.

For Petitioner : Mr.S.C.Herold Singh

ORDER

This revision is filed invoking the superintending jurisdiction of this Court under Article 227 of the Constitution of India seeking a direction to the learned Principal District Munsif, Padmanabhapuram to number the suit in O.S.SR.No.55 of 2022 dated 06.01.2022.

2. The above suit has been filed by the revision petitioner herein for the following reliefs:-

"A. The plaintiff be given a decree of
declaration declaring that the amount scheduled in the



plaint, available in the account of the 1st defendant in the 2nd defendant's Bank are the amount belonging to the plaintiff, being the retirement benefit of the plaintiff.

B. To grant permanent injunction restraining the defendants 2 and 3 from releasing the plaint schedule amounts to the 1st defendant and restraining the 1st defendant to withdraw the plaint schedule amount from the 2nd defendant Bank in account No.67157219629.

C. To pass a decree of mandatory injunction directing the 2nd defendant to transfer the plaint schedule property amount to the plaintiff's account from the 1st defendant's account No.67157219629."

3. The sum and substance of the plaintiff's case appears to be that the amounts lying in the 3rd respondent-Bank belonged to him and the 1st defendant has an account with the 2nd defendant-Bank. The 1st defendant, who is none other than his wife, had been entrusted with his ATM card, which she has been misusing. Now, there is a marital discord and the 1st defendant had withdrawn huge sums of money. Therefore, the present suit.

4. The suit was filed on 06.01.2022 and on the very next day, i.e., on 07.01.2022, the plaint was returned by the learned Principal District Munsif, Padmanabhapuram raising a query as to the maintainability of the suit qua the relief and for the appropriate Court fees. The plaintiff re-presented the plaint on 10.01.2022. Once again, on 12.01.2022, the learned Judge has returned the papers raising the following queries:-

"1) How the suit is maintainable without seeking relief for recovery of money? Hence necessary relief to be sought for and court fee to be paid.

2) How relief of declaration alone is maintainable in the suit to be explained?"

Challenging the same, the plaintiff is before this Court.

5. It has been time and again stated by this Court that a Judicial Officer, while numbering a suit, is only exercising a ministerial role. The correctness or otherwise of the reliefs claimed, cause of action pleaded, etc., is not within the realm of consideration before the Judicial Officer exercising this ministerial function. If the suit is numbered, it is for the defendant to raise these defences. Many at time, Judicial Officers tend to overlap their functions as a ministerial officer with that of their functions as a Judicial Officer. In the instant case, the plaintiff has re-presented the papers with sufficient explanation. Therefore, the learned Principal District Munsif, Padmanabhapuram, is directed to number the suit within a period of one week from the date of receipt of a copy of this order. Registry is directed to return the original plaint to the learned counsel for the petitioner, after obtaining necessary acknowledgment.



6. In the result, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar (Writs)

// True Copy //

/ /2022
Sub Assistant Registrar(CS)

abr

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 District Munsif,
Padmanabhapuram.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-4264[F] dated 04/02/2022)

C.R.P. (PD) (MD) No.182 of 2022
Dated: 04.02.2022

MK/17.02.2022/3P/3C