



CRP(NPD)(MD)No.1235 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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M.Rizwana Parveen Begum
Represented by her Power of Attorney
Rabeela Begum

... Petitioner

Vs

Kathijadhul Kubra Beevi (Died)

1.Mohammed Ibrahim
2.K.Dharmaraj
3.Abdul Wahith
4.Habeeb Nisha
5.Salima Begam
6.Sahul Hamid

... Respondents

Prayer: Petition filed under Article 227 of the Constitution of India, to call for records and set aside the order of return dated 21.10.2021 passed in the suit in O.S.SR.No.5744 of 2021, on the file of the Subordinate Court, Ramanathapuram and direct the same to take the suit on file.



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For Petitioner : Mr.J.Barathan

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ORDER

This Civil Revision Petition is filed as against order of the learned Subordinate Judge, Ramanathapuram in O.S.SR.No.5744 of 2021.

2.The petitioner/plaintiff herein has presented a plaint before the District Munsif Court, Rameshwaram, under Order VII Rule 1 of CPC, for the relief of partition, separate possession and for permanent injunction. At the time of presentation of the plaint, the petitioner/plaintiff valued the suit properties under the unamended Section 37(2) of Tamil Nadu Court Fee and Suit Valuation Act, 1955 and paid the court fees under Section 37(2) of the Act. The plaint was entertained by the learned District Munsif in O.S.No.40 of 2012 and ordered notice to the defendants. The defendants have also entered appearance and filed their written statement. When the suit was ripe for trial, the learned District Munsif found that the suit property was



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not properly valued and therefore directed the petitioner/plaintiff to value the property at its market value and further directed the plaintiff to pay the Court fee under Section 37(2) of the Tamil Nadu Court Fee and Suit Valuation Act, 1955. After assessing the market value of the property, the petitioner has also calculated the guide line value of the properties and filed a statement before the trial Court and the plaintiff also prepared to pay the necessary court fee as per Section 37 (2) of the Act. Considering the value of the suit property, the learned District Munsif held that the value of the suit property is beyond the jurisdiction of the District Munsif Court and returned the plaint with liberty to the petitioner to file it before the concerned Subordinate Court. Accordingly, the petitioner has presented the plaint before the Subordinate Court, Ramanathapuram in O.S.S.R.No.5744 of 2021. The said plaint was returned by the learned Subordinate Judge on the ground of pecuniary jurisdiction and also the amendments have to be done before the lower Court. Aggrieved over the same, the present Civil Revision Petition has been filed.



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3.Mr.Bharathan, learned counsel appearing for the petitioner, by relying upon Order VII Rule 10 of Civil Procedure Code submits that the District Munsif Court, Rameshwaram has returned the papers for pecuniary jurisdiction with a direction to the petitioner/plaintiff to present the same before the Subordinate Court and hence the question of further amendment by the Subordinate Court would not arise and therefore requests this Court to set aside the order passed by the Subordinate Court, Rameshwaram and to remit the matter back to the trial Court.

4.This Court considered the submissions made by the learned counsel appearing for the petitioners and considering the nature of relief to be granted, notice to the respondents is dispensed with.

5.As per Order VII Rule 10 of Civil Procedure Code, the suit can be returned to a court of competent jurisdiction at any stage, if there is a defect in the jurisdiction. The procedure as contemplated



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under Rule 10(a) is extracted as under.

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10. Return of plaint:-

(1) Subject to the provisions of Rule 10A, the plaint shall at any stage of the suit be returned to be presented to the court in which the suit should have been instituted

(2) Procedure on returning – On returning a plaint, the judge shall endorse thereon the date of its presentation and return, the name of the party presenting it and a brief statement of the reasons for returning it.

6. The plaint has been returned by the District Munsif Court, Ramanathapuram for want of jurisdiction. When the Court holds that it has no jurisdiction to entertain the suit either because of pecuniary or territorial jurisdiction, an amendment by itself is improper. Once the plaint is returned by the District Munsif Court, it does not have any jurisdiction to amend the plaint, especially, when the concerned amendment if allowed might oust the jurisdiction of the Court. The Court, which has jurisdiction to entertain the suit alone is competent to deal with the application for amendment of Plaint. Insofar



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the District Munsif Court is concerned, the suit is finally ended after return of the plaint for want of jurisdiction.

7. In view of the above, the impugned order is set aside and the matter is remanded back to the Subordinate Court, Ramanathapuram and the Court shall take up the case on file and shall issue notice to the defendants and proceed with the trial. Registry is directed to return the plaint after getting necessary acknowledgment from the petitioner's counsel.

8. With the above direction, this Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

23.06.2022

Index : Yes / No.

Internet : Yes / No.

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To

1. The Subordinate Court, Ramanathapuram

2. The District Munsif Court, Rameshwaram



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B.PUGALENDHI, J.

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