



CRP(MD)No.1981 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

CRP(MD)No.1981 of 2022

P.Anandha Krishnan

: Petitioner

Vs.

1.S.R.Karthick

2.S.R.Priya

3.The Sub Registrar,
Sub Registrar Office,
Rajapalayam,
Virudhunagar District.

4.The District Registrar,
District Registrar Office,
Madurai Road, Virudhunagar,
Virudhunagar District.

: Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to call for records in unnumbered plaint (Rep.No.3447/22) (F.No.OS/277/2022-CNR No.TNUR13000210/2022) dated 15.09.2022 on the file of the District Munsif Court, Rajapalayam and set aside the same and consequently, to direct the learned District Munsif, Rajapalayam, to number the plaint.



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For Petitioner : Mr.S.Muniyandi

For Respondents : Mr.A.Kannan,
Additional Government Pleader
for R.3, R.4

ORDER

The petitioner filed a plaint for the relief of injunction before the District Munsif Court, Rajapayalam, however, the same was returned by the learned District Munsif, repeatedly, without numbering. Aggrieved over the same, the present revision petition is filed.

2.Learned Counsel for the petitioner submitted that the trial Court ought to have numbered the plaint, however, by raising the plea of maintainability of the suit, the Court has repeatedly returned the plaint, which is against the guidelines laid down by this Court in ***Selvaraj and Others v. Koodankulam Nuclear Power Plant India Ltd., and Others***, reported in ***2021 (4) CTC 539***. Therefore, he prayed for interference.

3.This Court paid it's anxious consideration to the submissions made by the petitioner's Counsel and also perused the available records.



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4.The petitioner has presented a plaint for the relief of permanent injunction that there is a sale agreement between him and the respondents 1 & 2 and before enforcing the same, the respondents 1 & 2 tried to encumber the subject property by way of sale / mortgage and therefore, as an immediate relief, he has moved the plaint for injunction. The trial Court has returned the plaint that when the case is based on a sale agreement, how the suit is maintainable without instituting the relief of specific performance. The petitioner has re-presented the plaint with an endorsement that he is intending to file a suit for specific performance as against the respondents 1 & 2. Even thereafter, the plaint was returned repeatedly and aggrieved over the same, the petitioner has moved the instant revision.

5.A contract for sale is defined under Section 54 of the Transfer of Property Act as follows:-

“A contract for the sale of immovable property is a contract that a sale of such property shall take place on terms settled between the parties.

It does not, of itself, create any interest in or charge on such property.”



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6.The petitioner is having a grievance that the respondents 1 & 2, having entered into an agreement with this petitioner, are attempting to create some encumbrance on the subject property. In such a case, the petitioner's remedy is by filing a suit for specific performance and he has also made an endorsement dated 15.09.2022 before the trial Court that he is intending to file a suit for specific performance. Therefore, this Court is not inclined to interfere with the order of return made by the learned District Munsif, Rajapalayam.

7.At the same time, the trial Court ought not to have returned the papers repeatedly, instead, the trial Court ought to have provided an opportunity to the petitioner as stated in *S.Parameswari v. Denis Lourdusamy* [(2011) 5 CTC 742]. Referring this decision, this Court, in *Selvaraj*'s case (supra), has held that the duty to hear, before a decision is made, constitutes the soul of procedural fairness inbuilt in the Civil Procedure Code and cannot be compromised.

8.Be that as it may, since this Court has now provided an opportunity to the petitioner in the Open Court in this revision petition, this Court is not inclined to remand the matter for this purpose. Accordingly, this revision petition stands



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dismissed. It is always open to the petitioner to work out his remedy under the Specific Relief Act, if so advised. There shall be no order as to costs.

Index : Yes / No

20.12.2022

Internet : Yes

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Note: Registry is to return the original plaint after getting necessary acknowledgment and after taking due copies.

To

- 1.The District Munsif,
Rajapayalam.
- 2.The Sub Registrar,
Sub Registrar Office,
Rajapalayam,
Virudhunagar District.
- 3.The District Registrar,
District Registrar Office,
Madurai Road, Virudhunagar,
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B.PUGALENDHI, J.

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