



C.R.P. No. 3331 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.09.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. No. 3331 of 2023

and

C.M.P.Nos.20657 and 20659 of 2023

1. Lalitha

2. Parimala

3. Sanjay

4. Thirupathi

...Petitioners

.Vs.

1. Palaniammal

2. Srimurugan

3. Raja

4. Venkatesh



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5. The Sub-Registrar,
Harur, Harur Town & Taluk,
Dharmapuri District.

6. The Tahsildar,
Harur, Harur Town & Taluk,
Dharmapuri District.

7. The District Collector,
Dharmapuri.
Dharmapuri Taluk and District

...Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the Fair and Decretal Order passed in unnumbered O.S.Sr.No.299 of 2023 dated 26.07.2023 on the file of the Subordinate Judge at Harur, Dharmapuri District and consequently direct the learned Subordinate Judge at Harur, Dharmapuri District to number the suit filed in Unnumbered O.S. SR.No.299 of 2023 by allowing the present Civil Revision petition.

For Petitioner : Mr. R. Jayaprakash



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ORDER

This petition is filed to set aside the Fair and Decreetal Order passed in unnumbered O.S.Sr.No.299 of 2023 dated 26.07.2023 on the file of the Subordinate Judge at Harur, Dharmapuri District and consequently direct the learned Subordinate Judge at Harur, Dharmapuri District to number the suit filed in Unnumbered O.S. SR.No.299 of 2023 by allowing the present Civil Revision petition.

2. The case of the petitioner is that he has filed a suit for the relief of specific performance of contract and to declare the sale deeds in favour of defendants 2, 3 and 4 are null and void and for the relief of permanent injunction restraining the 6th defendant to transfer patta, chitta in the name of defendants 2 to 4 and for the relief of permanent injunction restraining the defendants 2 to 4 from creating any encumbrances in the 5th defendant's office over the suit property in favour of any third parties and the same was returned without numbering and the reasons stated is that the suit is filed beyond 3 years and 5 months and it is barred by limitation. Hence the petitioner has come forward with this petition seeking to number the suit.



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3. The learned counsel for the petitioner submitted that the Trial Court should have not questioned about the merits of the case at the time of numbering the suit and the same has to be decided only during the arguments. Hence he prays this Court to allow this petition.

4. On a perusal of the impugned order it is seen that the Court below had questioned about the merits of the case, which is irrelevant at the time of numbering of the suit. This Court while dealing with an identical issue in the case of ***Selvaraj and others Vs. Koodankulam Nuclear Power plant India Limited and others*** in ***CRP(MD)Nos.915,967,001 and 330 of 2020*** have allowed the petitions vide order dated 16.07.2021 with a direction to number the plaint and proceed to dispose the suit in accordance with law.

5. In view of the above, the Subordinate Judge at Harur, Dharmapuri District is directed to number the suit, if it is otherwise in



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order. The Court cannot step into the shoes of the defendants and reject the same before numbering on merits.

6. With the above directions, this Civil Revision Petition is disposed of. Consequently the connected miscellaneous petition are closed.

No order as to costs.

12.09.2023

smn

Index : Yes/No

Internet: Yes/No

To.

1. The Sub-Registrar,
Harur, Harur Town & Taluk,
Dharmapuri District.

2. The Tahsildar, Harur, Harur Town & Taluk,
Dharmapuri District.

3. The District Collector,
Dharmapuri. Dharmapuri Taluk and District

4. The Subordinate Judge at Harur, Dharmapuri District

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V.BHAVANI SUBBAROYAN,J.
Smn

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