



C.R.P.(MD)No.1281 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.05.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.R.P.(MD)No.1281 of 2023
and
C.M.P(MD)No.6302 of 2023

T.Vijayakumar

: Petitioner

Vs.

1.The Branch Manager,
Tamil Nadu Mercantile Bank Limited,
S.No.424/6B, Marthandam Highway Road,
Karungal,
Kanyakumari District – 629 157.

2.The District Judge,
Nagercoil,
Kanyakumari District.

: Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to direct the District Judge, Kanyakumari at Nagercoil to number and take the case on file the PCEIOP Filing No.OP/395/2023 on the file of the District Judge, Nagercoil and dispose of the same on merit and in accordance with law.



C.R.P.(MD)No.1281 of 2023

WEB COPY

For Petitioner : Mr.Vijay Satya for
Mr.S.Titus

For Respondent-1 : Mr.N.Dilipkumar

ORDER

This Civil Revision Petition has been preferred as against the return of PCEIOP Filing No.OP/395/2023 in the Vacation District Court, Kanyakumari District at Nagercoil and directing the second respondent to number the PCEIOP Filing No.OP/395/2023 and dispose of the same on merit and in accordance with law.

2. Mr.Vijay Satya, learned counsel for the petitioner would submit that numbering any petition is only a ministerial Act and hence, denial of numbering any petition would amount to denial of justice.

3. Mr.N.Dilipkumar, learned counsel for the first respondent/bank would submit that already two writ petitions viz., W.P(MD)No.20994 of 2022 and W.P(MD)No.28268 of 2022 and one miscellaneous petition viz.,



C.R.P.(MD)No.1281 of 2023

WEB COPY

WMP(MD)No.7466 of 2023 have been preferred by the same petitioner before the Division Bench of this Court in respect of the same subject matter and the same were dismissed and hence, the Civil Revision Petition is liable to be dismissed in view of the dismissal of those writ petitions. He would further submit that the petitioner had failed to comply with the conditional order passed by the Hon'ble Division Bench of this Court. On his failure to comply with the conditional order, those writ petitions came to be dismissed. He would further submit that for the scheduled bank, particularly, for the first respondent/ scheduled bank, the provision of the Tamil Nadu Money Lenders Act and also Tamil Nadu Prohibition of Charging Exorbitant Interest Act will not be applicable.

4. I have considered the rival submissions of both the learned counsels and perused the materials available on records carefully.

5. A perusal of the records would clearly show that PCEIOP Filing No.OP/395/2023 is an unnumbered O.P of the year 2023. It was submitted on 17.04.2023 and the same was returned on 25.04.2023, for four reasons.



C.R.P.(MD)No.1281 of 2023

WEB COPY

Thereafter, those defects were rectified and resubmitted on 03.05.2023.

However, the learned District Judge had returned the file for the reason that previous return still holds good and the petitioner has not explained the reasons properly. As per document No.6, the petitioner himself had admitted the due amount and filed an undertaking affidavit before the Hon'ble High Court. On that ground alone, now the return has been made granting one month time.

6. There is an inherent right in every person to bring suit of a civil nature. A suit for its maintainability requires no authority of law and it is enough that no statute bars the suit. The process of converting a plaint into a suit is fundamentally a part of the administrative or ministerial act of the Court, as dictated by the procedural law. No adjudication is involved, nor should it be involved when a plaint is presented at the point of entry into the legal system. Hence, during scrutiny of plaints for registration, the Courts should not wear the cap which it might wear while engaged in a judicial act of adjudication. That apart, when a plaint is presented for its compliance with the procedural law, the Courts can neither ignore the procedural



C.R.P.(MD)No.1281 of 2023

WEB COPY

prescription, nor can they fashion their own procedural requirements dehors the minimum requirements of the Code of Civil Procedure. Consequently, the Courts do not have any power to return the plaint except under the circumstances set out under Order VII Rule 10 C.P.C.

7. This Hon'ble Court in its Judgment reported in **2021 SCC Online Mad 2514 (Selvaraj and others vs. Shahul, Proprietor of Kasim Textiles and others)** dealt with the similar issue. The relevant portion of which is derived as follows:-

“53. Now, to facilitate the process of scrutiny of plaint at the preliminary, preregistration stage in the manner herein above stated, this Court tabulate the same below:

Heads	Permissible during scrutiny of plaint	Not permissible
<i>Cause title and form of pleading (Order VI Rule 3)</i>	<i>Yes. Can be verified if there is a substantial compliance of Appendix A.</i>	



C.R.P.(MD)No.1281 of 2023

WEB COPY

Heads	Permissible during scrutiny of plaint	Not permissible
<i>Parties to suit Order VII Rule 1 (a) to (b) and Rule 4</i>	<i>Yes. Required to the extent required, and if the suit is laid in a representative capacity.</i>	
<i>Maintainability (cause of action) Sec.9 & Order VII Rule 1(e)</i>	<i>Yes. Only to the extent of ascertaining if the plaintiff has a legally recognised or enforceable right on a plain reading of the plaint, and no more.</i>	➤ <i>Sufficiency or adequacy of pleading cannot be gone into. Hence grounds of fraud as in Order VI Rule 4 CPC cannot be insisted.</i> ➤ <i>Proof of any of the allegations in the plaint should not be sought.</i> ➤ <i>Merits of the matter or correctness of the pleadings cannot be gone into.</i>



C.R.P.(MD)No.1281 of 2023

WEB COPY

Heads	Permissible during scrutiny of plaint	Not permissible
Maintainability (Jurisdiction) Sec.9 CPC	➤If the inherent jurisdiction of the Court is barred in granting the relief sought by any statute. ➤Caution must be exercised before returning a plaint. The entire plaint, the cause of action and the relief sought must be understood as are stated or disclosed in the plaint alone need to be considered. ➤The statutory provision barring the institution of the civil suit or excluding the civil court's inherent jurisdiction to take cognizance of the civil dispute must be strictly understood.	



C.R.P.(MD)No.1281 of 2023

WEB COPY

Heads	Permissible during scrutiny of plaint	Not permissible
Maintainability (Limitation)	<i>Yes. Where a suit is ex facie barred by limitation.</i> <i>Only the allegation in the plaint should be the basis. However, where the plaintiff pleads exemption from the law of limitation under Order VII Rule 6, this should be left to be tested post registration of the suit at the appropriate stage.</i>	<i>Newer or clarificatory material or proof of any fact pertaining to limitation should not be insisted.</i>
Maintainability Territorial and Pecuniary jurisdiction Order Sec.15 to 21 r/w Order VII Rule 1(f)	Yes.	
Money suits Order VII Rule 2	<i>If precise amount is stated</i>	



C.R.P.(MD)No.1281 of 2023

WEB COPY

Heads	Permissible during scrutiny of plaint	Not permissible
<i>Description of Property Order VII Rule 3</i>	<i>Yes</i>	<i>However, sufficiency of the description cannot be gone into. Again, if there is any variance of extent or boundary description with any title deed, even that may be formally notified for a possible typographical or clerical mistake, but if any explanation is offered justifying the extent stated, the plaint has to be registered. This is because, looking for proof and correctness of pleadings is not contemplated at the stage when the suit is registered.</i>



C.R.P.(MD)No.1281 of 2023

WEB COPY

Heads	Permissible during scrutiny of plaint	Not permissible
<i>Relief Order VII Rule 7 and 8</i>	<i>Yes, but limited to ascertaining if a relief at all is sought</i>	<i>Appropriateness or suitability of the relief sought cannot be gone into. This is not Court's job. Seeking the relief is the prerogative of the plaintiff.</i> <i>The fact that the Court may not grant it ultimately is a matter for adjudication, and is part of its judicial act and not part of its ministerial act of numbering the plaint.</i> <i>[See AIR 1942 Mad 446]</i>



C.R.P.(MD)No.1281 of 2023

WEB COPY

Heads	Permissible during scrutiny of plaint	Not permissible
Valuation and court fee	<i>Yes. But the basis for the the valuation must be as stated by the plaintiff.</i> <i>If any objection as to valuation must be done, then the defendant can always raise it during the first hearing under Sec. 12(2) of the Tamil Nadu Court Fee & Suit Valuation Act, 1955</i>	<i>Proof of value of subject matter of the suit such as expert's valuation report cannot be insisted.</i>



C.R.P.(MD)No.1281 of 2023

WEB COPY

Heads	Permissible during scrutiny of plaint	Not permissible
Documents	<i>If enclosed can be verified with the list provided in the plaint the possibility of laying a suit 24 x 7. No law compels any person to possess all the documents all the time either. A cause of action for the suit invariably arises at a time convenient to the defendant, but it is the plaintiff who has to</i>	<i>Production of the documents cannot be insisted. It needs to be realised that, given the level of poverty and illiteracy in this country it cannot be expected that every one will possess all the documents all the time, anticipating approach the Court to protect his/her right. All that the plaintiff therefore needs is only a cause of action and not proof of it when he enters the court-system.</i>



C.R.P.(MD)No.1281 of 2023

WEB COPY

Heads	Permissible during scrutiny of plaint	Not permissible
<i>Documents</i>		<i>This apart After all under Order VII Rule 14(3) CPC documents, including title documents can be produced subsequently, Production of documents may be relevant for considering the granting of interim relief, but is not mandatory for numbering the suit.</i>
<i>Signing the plaint Order VI Rule 14</i>	<i>Yes</i>	
<i>Verification of plaint Order VI Rule 15</i>	<i>Yes</i>	



C.R.P.(MD)No.1281 of 2023

WEB COPY

Heads	Permissible during scrutiny of plaint	Not permissible
Accompanying papers	<i>1. Copy of plaint and affidavit. 2. Vakalath. 3. Any application for leave to sue 4. Process along with copies of plaint. (Plaint cannot be returned for not providing it since under Order VII Rule 9, they have to be provided only after the suit is numbered and the Court orders summons to the defendant) 5. Any other applications with affidavit</i>	
Others	<i>Any formal typographical or clerical error apparent on the face. Any doubt as to pecuniary or territorial jurisdiction. This is consistent with Order VII Rule 1(a) CPC</i>	

Related Aspects:



C.R.P.(MD)No.1281 of 2023

WEB COPY

54. Where the plaint is sought to be rejected on any of the grounds provided under Order VII Rule 11 even during the pre-registration stage, the matter must be posted before the open court, and the plaintiff or his/her counsel must be heard in the matter.

55. For curing any of the permissible defects, no court shall return the plaint more than once. This has been deprecated by this Court even in *S. Parameswari v. Denis Lourdusamy*, [(2011) 5 CTC 742] referred to above. In other words, returning the plaint multiple times on multiple grounds is a sin in procedure and the Court/Registry needs to become adequately aware about it. In spite of the fact that the decision in *S. Parameswari's case* was pronounced a decade ago, even in this batch of cases this Court has witnessed that some of our Courts and their registry continue to flout it.

56. This apart, in all cases where the plaint is presented, a decision as to numbering in the manner indicated in the tabulation provided in paragraph 53 shall be taken not later than three working days (excluding the date of presentation and any intervening holidays).”



C.R.P.(MD)No.1281 of 2023

WEB COPY

8. But none of the aspects dealt with above seems to affect the facts and circumstances of this case. Considering the same, this Court is of the considered view to set aside the impugned order passed by the learned District Judge, Kanyakumari District at Nagercoil in the unnumbered PCEIOP Filing No.OP/395/2023 dated 04.05.2023 and remand the unnumbered petition in this unnumbered PCEIOP Filing No.OP/395/2023 back to the learned District Judge, Kanyakumari District at Nagercoil and the petitioner is directed to submit proper explanation elaborately answering each and every query, dated 25.04.2023, raised by the learned District Judge and the learned District Judge is directed to consider the same on merits in terms of the directions of this Hon'ble Court in ***Selvaraj and others vs. Shahul, Proprietor of Kasim Textiles and others*** reported in ***2021 SCC Online Mad 2514***, by giving one more opportunity to the petitioner and number the same, if it is in order.



C.R.P.(MD)No.1281 of 2023

WEB COPY

9. With the above directions, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

17.05.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
skn

Note: Registry is directed to return the original impugned order/PCEIOP Filing No.OP/395/2023 after substituting the same by taking photo copy of the same.

To

- 1.The District Judge,
Nagercoil,
Kanyakumari District.
- 2.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P.(MD)No.1281 of 2023

L.VICTORIA GOWRI.,J

skn

C.R.P.(MD)No.1281 of 2023
and
C.M.P(MD)No.6302 of 2023

17.05.2023