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C.R.P.No.1193 of 2024.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.1193 of 2024

K.Thangamuthu

... Petitioner

Vs.

1.P.Sangeetha

2.Minor P.Maga

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to issue direction directing the District Munsif Court, Kangeyam to number the plaint dated 10.01.2024 filed in C.N.R.No.154 of 2024 in unnumbered suit on the file of the District Munsif Court, Kangeyam instead of returning the plaint on various dates namely 22.01.2024 and 09.02.2024.

For Petitioner

:M/s.N.S.Sivaprakash
for Mr.S.Dharmadhurai

ORDER

The Civil Revision Petition is filed seeking a direction to District Munsif Court, Kangeyam to number the plaint in CNR.No.154 of 2024.



2. The petitioner herein filed a suit seeking declaration of title and for consequential injunction restraining the respondents from interfering with his peaceful possession and enjoyment of the suit property. The plaint was valued under Section 25(d) and 27 (c) of the Court Fees Act. The Trial Court returned the plaint by raising objection that valuation made by the petitioner under Section 25(d) of Tamil Nadu Court Fees and Suit Valuation Act, 1965 was not correct. The petitioner was directed to value the suit claim under appropriate provision and pay necessary court fee. Aggrieved by the same, the petitioner is before this Court.

3. The learned counsel for the petitioner submits that petitioner seeks a declaration of his status as owner of the suit property and therefore, as per the judgment of this Court in *Annam Ramji Vs Bajaj Enterprises and another* reported in **2011 (1) CTC 26**, the valuation made by the petitioner under Section 25(d) of Court Fees Act is correct and the Trial Court erred in returning the plaint.



4. A perusal of the suit prayer would indicate that petitioner seeks declaration of his title and also consequential injunction restraining the respondents from interfering with his peaceful possession and enjoyment of the suit property. Therefore, the suit prayer would fall under Section 25(b) of Tamil Nadu Court Fees Act. The petitioner is expected to value the suit claim at half of the market value and pay *ad valorem* court fee.

5. As far as the case law relied on by the learned counsel for the petitioner is concerned, the same is not applicable to the facts of the present case. In the said case law, the suit was filed only for declaration of title without any consequential prayer. Therefore, in that case, this Court came to the conclusion that suit prayer would fall under Section 25(d) of Court Fees Act. However, in the case on hand, the petitioner seeks consequential relief of injunction. Therefore, the same will fall under Section 25(b) of Court Fees Act. When this was pointed out to the learned counsel for the petitioner, he submitted that petitioner is willing to not press the suit prayer(b) namely prayer for injunction. He also made an endorsement to that effect.



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6. In view of the fact the petitioner not pressed the suit prayer (b), the plaint presented by the petitioner can be treated as a suit for declaration of title alone without any consequential prayer for injunction. In such circumstances, the same will fall under Section 25(d) of Court Fees Act. The petitioner is directed to represent the plaint by not pressing the suit prayer(b) relating to injunction within a period of two weeks from the date of receipt of a copy of this order and if the same is represented, the Trial Court is directed to number the same, if it is otherwise in order without making any objection with regard to the valuation.

7. With these observations, this Civil Revision Petition is disposed of.

No costs.

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Index : Yes

Internet : Yes

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Note: Registry is directed to return the original plaint filed by the petitioner to the counsel for the petitioner.



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S.SOUNTHAR, J.

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To

The District Munsif Court, Kangeyam

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