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C.R.P.No.1874 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.1874 of 2024

M.Faslur Rahman

... Petitioner

Vs.

1.V.C.Palanichamy

2.Ramesh Kumar

3.Vijayalakshmi

4.Prabhu

5.Kanchana

6.Superintending Engineer,
TANGEDCO, Powerhouse Road,
Erode.

7.Assistant Engineer,
TANGEDCO, TNEB,
Gopichettipalayam.

... Respondents

PRAYER: Civil Revision Petition has been filed under Article 227 of Constitution of India, 1950, praying to direct the learned District Munsif, Gopichettipalayam to number the suit in O.S.Filing No.62 of 2024 on the file of the District Munsif Court, Gopichettipalayam.



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For Petitioner : Mr.N.Baaskaran
for M/s.Eswar, Kumar and Rao

For Respondents 1 to 5 : Mr.K.Vasanthanayagam
for Mr.Ranjith Kumar

ORDER

This Civil Revision Petition has been filed by the petitioner/plaintiff seeking a direction to the learned District Munsif, Gopichettipalayam to number the suit in O.S.Filing No.62 of 2024 on the file of the District Munsif Court, Gopichettipalayam.

2.The petitioner as plaintiff filed a suit for declaration against the respondents declaring the sale deed dated 08.01.2024 registered in Doc.No.82 of 2024 as null and void, granting permanent injunction restraining the respondents from trespassing into the suit property or interfering in any manner with the plaintiff's peaceful possession and enjoyment of the suit property, further, not to disconnect the electricity service connection bearing No.04-306-001-44 and for such other relief. The plaint copy was filed on



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12.03.2024 before the learned District Munsif, Gopichettipalayam. On the same day, the plaint was returned seeking some clarifications. The petitioner/plaintiff complied with the return and represented the same referring to the judgment of the Hon'ble Apex Court in the case of *Rame Gowda (D) by Lrs. vs. M.Varadappa Naidu (D) by Lrs. and another* reported in 2004 (1) SCC 769, which was followed by Madurai Bench of this Court reported in 2023 (2) MWN (Civil 273), claiming that it is not necessary, a person, who seeks injunction must have a title. Again, the plaint copy was returned on 15.03.2024, against which, the present revision is filed.

3.The learned counsel for petitioner/plaintiff submitted that the petitioner has sought to declare the sale deed dated 08.01.2024 registered under Doc.No.82 of 2024 as null and void and for other reliefs. He further submitted that the petitioner already filed O.S.No.482 of 2024, which is pending before the learned II Additional District Judge, Gopichettipalayam seeking declaration that the petitioner is having the title to the suit property



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and for other reliefs. The return of the plaint on the ground of maintainability is ex-facie, illegal and arbitrary. He further submitted that the trial Court ought to have numbered the suit, when there is clear and categorical civil dispute under Section 9 of C.P.C.

4.The learned counsel further submitted that the trial Court failed to follow the dictum laid down by this Court in *Muthuganesah vs. Thillaimani and others* reported in 2016 (1) MNW (Civil) 503, wherein it is held that the trial Court cannot scrutinize and question at the time of admitting the plaint, as regards cause of action, valuation, payment of Court fee, jurisdiction and limitation. The trial Court is expected only to verify whether the plaint has been filed in proper form and whether the necessary requirements of plaint have been complied with. He further submitted that in the plaint 14 documents annexed in support of his averments. The trial Court not to scrutinize the documents at the stage of numbering of the suit, After numbering the suit, at the time of admission, the admissibility, veracity of the



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document and the averments in the plaint can be considered. But ex-facie it cannot make objection and return the plaint. He further referring to the judgment of this Court in C.R.P.(MD) Nos.915, 943, 967, 991 and 330 of 2020, wherein this Court had gone in detail referring to various judgments of this Court, and Apex Court, and held the scrutiny of plaint is only to the extent of ascertaining, if the plaint has legally recognised enforceable right on a plain reading of the plaint and no more, the trial Court is not permitted to look into the sufficiency or adequacy of pleading, and proof of any of the allegations in the plaint should not be sought by its merits of the matters and correctness of the pleadings cannot be gone into, when the question of maintainability is raised.

5.The learned counsel for the respondents 1 to 5 submitted that the trial Court had rightly returned the plaint, since there is no cause of action. Further the petitioner had already filed a suit in O.S.No.482 of 2022 before



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the learned II Additional District Judge, Gopichettipalayam, which is also similar in nature.

6.The learned counsel for the petitioner objected for the same stating that at this stage respondents' have no say and they cannot make any objections. It is between the petitioner and the Court, which raised some objections with regard to numbering the plaint.

7.Considering the submission made and on perusal of the plaint, it is seen that the petitioner made specific averments against the respondents/defendants in the suit and he also annexed 14 documents along with the plaint in support of his averments. The veracity of the documents cannot be looked into at the time of presentation, as held by various judgments, which are referred above. Hence, returning and non entertaining of the plaint by the Lower Court is not proper and sustainable.



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8. In view of the same, the trial Court is directed to receive the
plaint, as regard to its objections, the same can be considered at the time of
admission and not by returning the plaint at threshold.

9. With the above directions, this Civil Revision Petition is disposed
of. No costs.

07.06.2024

Index : Yes/No

Internet : Yes/No

Speaking order/Non speaking order

Neutral Citation : Yes/No

rsi

To

1. The Superintending Engineer,
TANGEDCO, Powerhouse Road, Erode.

2. The Assistant Engineer,
TANGEDCO, TNEB, Gopichettipalayam.

3. The District Munsif,
Gopichettipalayam.



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M.NIRMAL KUMAR, J.

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