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C.R.P.No.2934 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.2934 of 2024

and

C.M.P.No.15705 of 2024

M.Surendran

... Petitioner

Vs.

1.Archana Ravindran

Prop. Tharikka Foods,
M.R.L. Mullai, Plot No.86,
Gomathi Nagar, Ram Nagar,
8th Main Road, Velachery,
Chennai – 600 042.

2.A.S.Vijayakumari

3.Praveen Ravindran

... Respondents

PRAYER: Civil Revision Petition has been filed under Article 227 of Constitution of India, 1950, praying to set aside the returns of the Registry dated 16.07.2024 passed in I.A.SR.No.40735 of 2024 in O.S.No.5346 of 2022 and direct the registry to number the Order VII Rule 11(d) application.

For Petitioner : Mr.S.Sivaraman



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ORDER

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This revision has been filed seeking to set aside the returns of the Registry dated 16.07.2024 passed in I.A.SR.No.40735 of 2024 in O.S.No.5346 of 2022 and direct the registry to number the petition filed Order VII Rule 11(d) of C.P.C.

2.The petitioner/first defendant in O.S.No.5346 of 2022 had filed a petition under Order VII Rule 11(d) of C.P.C. seeking to reject the plaint and the same was returned with an endorsement as “averments in this petition do not fall within the ingredients of Order VII Rule 11 of C.P.C. Petition is not maintainable. Hence returned”. Thereafter it was resubmitted on 09.07.2024 answering to the return. Thereafter, on 11.07.2024, the said I.A. was again returned and the same was represented on 15.07.2024. On 16.07.2024, the I.A. was again returned referring to the merits of the case.



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3.The contention of the learned counsel for petitioner is that the trial Court in all fairness ought to have taken the petition on file, thereafter, on hearing the petitioner, ought to have passed the order on merits and not by returning the petition considering the merits of the case. The petitioner also referred to three judgments in support of his contentions. In such circumstances, the petition ought to be numbered, heard on merits and orders to be passed thereafter. Hence, the petitioner filed the above revision.

4.On perusal of the impugned order, it is seen that the trial Court, on 16.07.2024, had passed the following order:

*“(1) As per the plaint averments suit property was purchased by grandfather of plaintiff one Mani.
(2) Sale deed also enclosed as document 1 in the plaint.
(3) Earlier return stands good. Petition is not maintainable. Hence returned.”*

The Trial Court, referring to the merits of the case, returning the petition is not proper.



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5. In view of the same, this Court directs the petitioner to resubmit the return within a period of two weeks from the date of receipt of a copy of this order and the trial Court is directed to consider the same, take the I.A. on file, if it is otherwise in order, hear the petitioner and thereafter pass orders on merits.

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

24.07.2024

Index : Yes/No

Internet : Yes/No

Speaking order/Non speaking order

Neutral Citation : Yes/No

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Note: (i) Registry is directed to return the original papers.

(ii) Issue order copy on 25.07.2024.



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To
The VII Additional Judge,
City Civil Court, Chennai.



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M.NIRMAL KUMAR, J.

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and

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24.07.2024