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C.R.P.[NPD].No.5122 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.12.2024

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.[NPD]No.5122 of 2024

Santhosam

.. Petitioner

Vs.

1.Selvi
2.Senthilkumar
3.Kavitha
4.Keerthana
5.Sineha
6.Lakhmi

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the return order passed by the learned Principal District Sessions Court, Kallakurichi in un-numbered OS Sr.No.6314 of 2024 dated 23.07.2024.

For Petitioner : Mr.V.Gunasekar

ORDER

This Civil Revision Petition has been filed seeking to set aside the docket order dated 23.07.2024 made in O.S.Sr.No.6314 of 2024 on the file of the learned Principal District Sessions Court, Kallakurichi.

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2. Originally a suit has been filed by the petitioner against the sisters and brothers and family members including the mother of the petitioner/plaintiff for partition. However, the trial Court returned the plaint for the following reasons:

- “1.Death certificate of Elaiyappa Gounder to be filed.
- 2.Death certificate and legal heir certificate of deceased Kailasa Gounder to be filed.
- 3.Recent document of suit properties to be filed.
- 4.The suit is to be properly valued and filed before proper forum.
- 5.How the suit Item No.4 house is valued to be stated.
- 6.Fresh docket sheet to be attached.”

3.The petitioner herein gave a reply stating that the death certificate of the Elaiyappa Gounder and the legal heir certificate are with the 2nd defendant and no recent documents are available with the plaintiff and re-presented the plaint. However, once again the plaint was returned on 23.07.2024 for the reason that the death certificate of Kailasa Gounder and latest encumbrance certificate have to be filed and directed the plaintiff to



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value the suit properly.

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4. At the outset, when the relationship of the parties are not in dispute at the time of numbering the suit, no document required. It is for the plaintiff to establish his claim. When the plaint disclosed the cause of action before numbering the suit, insisting the plaintiff to produce all the documents are not required. The Court has to see whether the cause of action is properly mentioned to maintain the suit and whether the plaint has been properly instituted or not. When the suit has been properly instituted, at the stage of taking the plaint on file by numbering it, insisting for production of documents does not arise at all. The Court cannot supplant the defence at this stage on behalf of the defendants. It is for the defendants to contest the claim of the plaintiff during the trial of the suit.

5. In view of the above, the impugned order, dated 23.07.2024 is set aside. The learned District and Sessions Judge, Kallakurichi is directed to number the suit and proceed with the suit.



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6. In the result, the Civil Revision Petition is allowed. No costs. The Registry is directed to return the original documents filed by the petitioner herein in the present Civil Revision Petitioner.

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rst

Index : Yes/No

Internet: Yes/No

Speaking/Non-Speaking Order

To:

The Principal District Sessions Court,
Kallakurichi.



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N.SATHISH KUMAR, J.

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