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C.R.P.(MD)No.2110 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.10.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD).No.2110 of 2024 and
C.M.P.(MD)No.12033 of 2024

1. Ganesan
2. Rajamani

... Petitioners/Defendants 2 & 3

Vs.

1. Valliyammal
2. Murugan
3. Athimuthu
4. Shanmugakani
5. Padma
6. Santhanam
7. Delli
8. Marimuthu
9. Kalimuthu
10. Kasilingaperumal
11. Kalimuthu
12. Chandra Muthumani
13. Thamaraiselvi
14. Saraswathi
15. Muniyammal
16. Sivagami
17. Senthoorpandi
18. Pathma
19. Paramasivan
20. Arumugam
- Avudaiyammal (died)
21. Muniyandi
22. Senthoorpandi
23. Ammasikani



24. Ponmuniammal
25. Velraj
26. Rajamani
27. Mariappan

... Respondents/ Plaintiffs /
Defendants 1, 4 to 11

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, to take on file and number the unnumbered I.A. No. of 2024 in O.S.No.54 of 2018 which was returned on 14.08.2024 on the file of the I Additional District Judge, Thoothukudi and allow this civil revision petition with costs throughout.

For Petitioners : Mr.G.Prabhu Rajadurai

For R-1 to R-5,R-7

R-9 to R-19 : Mr.I.Robert Chandra Kumar

For R-6 & R-8 : No appearance.

ORDER

Heard both sides.

2. The petitioners are figuring as defendants 2 and 3 in O.S.No.54 of 2018 on the file of the I Additional District Judge, Thoothukudi. They filed I.A. for reception of additional written statement under Order 8 Rule 9 CPC. The said IA was dismissed without numbering the same. Questioning the said order, this civil revision petition came to be filed.



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3. The issue raised in this revision petition is no longer *res integra*.

A learned Judge of this Court vide order dated 16.07.2021 in C.R.P. (MD)No.915 of 2020 etc. batch had held as follows:-

“24.1. Therefore, it may be stated as a general rule that the Courts, at the preregistration stage of the plaint, should confine the scope of its scrutiny to the barest minimum which a ministerial act may require. It does not call for any serious application of mind because the defendant is still not before the Court, and with no evidence before it there is nothing to adjudicate either.

...

26. ...

(c) Limitation:

- Of a cognate variety are cases where on the pleaded cause of action, the relief appears to be barred by limitation. But limitation is generally considered as a mixed question of law and fact. The issue here is whether the question of limitation should be probed at the stage of numbering. Being a mixed question of law and fact, it is appropriate that the issue on limitation is better probed at the stage of trial. However, the Supreme Court has clarified that where there is a clear bar, the Court would be justified in exercising its powers under Order 7 Rule 11 [See: ***Dahiben v. Arvindbhai Kalyanji Bhanusali*, (2020) 7 SCC 366**]. Even in such



extreme cases, the ideal course is to number the suit, and dismiss it under Section 3 of the Limitation Act even before admitting the same and issuing summons to the plaintiff, as was observed by S. Padmanabhan, J in ***Craft Centre V. The Koncherry Coir Factory (AIR 1991 Kerala 83)***, with which this Court respectfully concurs.

...

33. The next aspect pertains to the compliance part of the parameters hereinabove declared. This must be administratively decided by the High Court. The State Judicial Academy may also spare its attention in these aspects.

34. Before parting with this case, this Court wishes to remind the District Judiciary that any Civil Revision Petition arising out of a pending case [titled CRP (PD)] fundamentally challenges a procedural error. The number of instances this Court chooses to interfere with any order so challenged is the measure of the quality of our District Judiciary in handling procedure. An effective District Judiciary with a right feel for procedural law, therefore, is of enormous support to this Court, as it may reduce both the inflow of, what this Court may term as avoidable litigation, and the instances it may have to interfere with the orders under challenge before it.

...

**Conclusion:**

36.1. This Court finds that in all these cases, the concerned court(s) have conducted mini-trials at the stage of numbering the suit which is, ex-facie, inconsistent with the parameters set out, supra. Consequently, CRP(MD) Nos. 915, 967, 991 and 330 of 2020 are allowed and the orders under challenge are set aside. The respective trial courts shall now number the plaint before it and proceed to dispose the suit(s) in accordance with law.”

4. In this view of the matter, the impugned order is set aside. The Court below shall number the IA and issue notice to the respondents and give a disposal to the same on merits and in accordance with law. I make it clear that I have not gone into the merits of the matter. This civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

16.10.2024

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Internet: Yes/No
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C.R.P.(MD)No.2110 of 2024

G.R.SWAMINATHAN,J.

PMU

To

The I Additional District Judge,
Thoothukudi.

C.R.P.(MD).No.2110 of 2024

16.10.2024