



C.R.P(MD)No.3118 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2024

CORAM

**THE HON'BLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI**

C.R.P(MD)No.3118 of 2024

K.Muthukumar

... Petitioner

Vs.

1.R.Kumaresan

2.K.Ramasamy

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the entire record pertaining to O.S (Un-numbered) SR.No.6821 of 2024, dated 19.11.2024 on the file of the learned Subordinate Judge, Thenkasi, set aside the same by allowing the present Civil Revision Petition and number the Original Suit and to pass such further or other orders as this Court.

For Petitioner : Mr.P.Pethu Rajesh



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ORDER

The present Civil Revision Petition for numbering the suit filed by the petitioner before the Subordinate Judge, Thenkasi.

2. According to the revision petitioner, the suit has been filed for permanent injunction. At the time of presentation of the plaint, it was returned on the ground that the Will executed by the first defendant was cancelled later. In spite of that the Trial Court has repeatedly returned the plaint stating one after other reasons. Aggrieved by this, the present revision is preferred.

3. Heard the learned Counsel for the petitioner and perused the materials available on record.

4. It is settled legal position that at the time of numbering the suit, the Court has to go in the averments in the plaint and the Court cannot conduct a roving enquiry taking the role of the defendant. The Trial



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Court has to see whether there is cause of action to file the suit at the stage of numbering. Hence, the Trial Court is directed to number the plaint, if it is otherwise in order and dispose the same in accordance with law on its own merits.

5. With this observation, this Civil Revision Petition stands disposed of. There shall be no order as to costs.

11.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

Note: Registry is directed to return the original impugned order after getting acknowledgement.

To

The Subordinate Judge,
Thenkasi.

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K.GOVINDARAJAN THILAKAVADI, J.

BTR

Order made in
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11.12.2024