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CRP.No.2218 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.2218 of 2025

S.Selva Murugan

.. Petitioner

Versus

D.Shanthi

.. Respondent

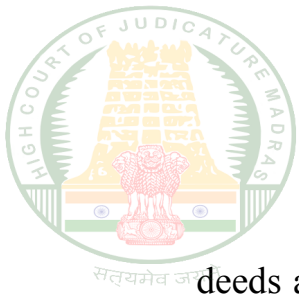
Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order of 'A' Diary Extract passed in Unnumbered O.S.SR.No.1684 of 2024 vide order dated 27.02.2025 on the file of the learned District Munsif cum Judicial Magistrate, Gummidipoondi giving reasonable opportunity to the petitioner.

For Petitioner : Mr.T.Kannan

ORDER

Challenging the rejection of the plaint filed for redemption of mortgage, the present suit has been filed.

2. The suit has been filed contending that the plaintiff's adopted mother namely Mariyammal originally the owner of the property has executed a will in favour of the plaintiff and the plaintiff had availed a loan of Rs.48,500/- from the defendant. At that time, he has also deposited title



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deeds and possession is also handed over in lieu of the interest. Therefore, the plaintiff has filed a suit for redemption of mortgage and also seeking direction for return of the document. The Trial Court even without numbering the suit has come to the conclusion that there is no evidence to show that the plaintiff is the legal heir of one Mariammal, the so-called adopted mother of the plaintiff and rejected the plaint. Hence, the revision.

3. Heard the learned counsel for the petitioner and perused the materials placed on record.

4. At the outset, this Court is of the view that the approach of the Trial Court is not fair and proper. Plaint can be rejected only on the grounds set out under Order VII Rule 11 of Code of Civil Procedure. Even before numbering the suit, the Trial Court has gone into the merits and conducted roving enquiry which is not warranted. It is for the plaintiff to establish his case after full trial, the Court cannot act as defendant at this stage to non suit the plaintiff. Hence, the order impugned is set aside. The Trial Court is directed to number the suit and decide the suit on merits.

5. Accordingly, this revision stands allowed. No costs.



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Internet : Yes

Index : Yes/No

Speaking order / Nonspeaking order

Neutral Citation : Yes/No

To

1. The District Munsif cum Judicial Magistrate
Gumidipoondi

2. The Section Officer, VR Section
Madras High Court

N. SATHISH KUMAR, J.



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