



CRP(PD).No.405 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

CRP.(PD).No.405 of 2025

1.S.Mahalakshmi

2.Minor Gowshika Gowda

Minor rep by his Mother and Natural Guardian,
Mahalakshmi

... Petitioners

Vs.

1.Baby

2.Arathi

3.Nandish

4.The Sub Registrar,
Hosur

5.The Sub Registrar
Kelamangalam

6.The State Govt of Tamil Nadu
Rep by its District Collector,
Collector Office, Krishnagiri

... Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India to direct the Learned Subordinate Judge, Hosur to number the suit SR No.6353 /2024 filed by the petitioner on 29.05.2024.

For Petitioner : M/s.S.C.Vishwanath

For Respondent : M/s.N.Muthuvel, Govt. Advocate
for R.4 to R.6

**ORDER**

WEB COPY The above Civil Revision Petition has been filed to direct the learned Subordinate Judge, Hosur to number the suit S.R.No.6353 of 2024.

2. The suit has been filed by the plaintiffs/petitioners herein, for a partition and separate possession of a 2/9th share that falls due to the 2nd plaintiff and for a permanent injunction restraining the defendants 1 to 6 from alienating the properties till the disposal of the suit and declaring the Gift Settlement Deed executed by the 3rd defendant in favour of the 1st defendant on 11.12.2019 as null and void. The said suit is yet to be numbered and is being returned. Challenging the same, the revision petitioners are before this Court.

3. The docket entries in the suit would indicate that at the first instance, the suit was returned stating that the 1st plaintiff has filed the suit as a next friend of the 2nd plaintiff in her representative capacity and there is no relief sought for against the 1st plaintiff. The return has



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been re-submitted by the plaintiffs stating that the 2nd plaintiff is a minor and the 1st plaintiff as the next friend had filed an application under Order 32 Rule 1 of CPC and the 1st plaintiff is not claiming any relief in the suit. The return has been represented on 26.09.2024.

4. On 25.10.2024 once again the suit was returned wherein the learned Judge had raised queries touching upon the merits of the case stating that (i) in the plaint the plaintiff herself had admitted that the suit schedule properties are self-acquired properties of Muniraj and how the plaintiffs can later claim it to be an ancestral property, (2) no document has been filed to show that the suit property is the ancestral property and (3) even before marriage, the property was purchased by D3 in his name and that it is by way of a family arrangement. The plaintiffs are called upon to clarify as to how the 2nd plaintiff would claim a right over the property. Aggrieved by this the petitioners are before this Court.

5. Heard the learned counsel for the petitioners and the learned



Government Advocate for respondents 4 to 6.

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6. The plaintiffs have set out in their plaint as to how the 2nd plaintiff is entitled to a share in the property. It is a matter that has to be ultimately proved by the plaintiffs. The learned Judge has to only consider the contents of the plaint and whether all the other attended documents are filed. It is for the plaintiff to produce documents to show that the property in question is an ancestral property. At this stage of numbering, the Court cannot seek a clarification by stating that the plaintiffs have not proved their case.

7. Further, the returning of the suit without even numbering it is per se incorrect. The learned Trial Judge instead of exercising his jurisdiction under the administrative side has exercised his jurisdiction on the judicial side. The role of the Presiding Officer while exercising his jurisdiction on the administrative side at the time of numbering a suit is to verify if the plaint conforms to the parameters required for registering/numbering the suit and not to conduct a roving enquiry



into the merits of the case.

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8. Therefore, the Civil Revision Petition is allowed. The learned Subordinate Judge, Hosur is directed to number the suit if all other requirements as contemplated under the Code of Civil Procedure for numbering has been complied with. No costs.

07.02.2025

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

"Note:-The Registry is directed to return the original plaint back to the petitioners after getting due acknowledgement."

To

1. The Subordinate Judge,
Hosur

2.The Sub Registrar,
Hosur

3.The Sub Registrar
Kelamangalam

4.The District Collector,
Collector Office, Krishnagiri



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P.T. ASHA. J.,

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