



C.R.P.No.6229 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated : 05.12.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

C.R.P.No.6229 of 2025

Shanthi Enterprises,
Through its Owner, Mr.Sadasivam,
Door No.1/6/19, Sangakiri Taluk,
Salem Main Road, Salem – 637 301.

... Petitioner

Vs.

1. Sumathi & Co.,
through one of its Parnter Tamilarasi
Door No.2A, Thiruvalluvar Salai, Paramathi Vellore,
Namakkal – 638182.

2. P.Tamilarasi

3. P.Sasikala

4. P.Sumathi

5. P.Parthiban

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to direct the Registry, District Commercial Court, Salem to number the suit filed under Filing No.150 of 2025 by removing their objections with regards to the Interlocutory Applications filed under Order 38 Rule 5.

1/6



WEB COPY



C.R.P.No.6229 of 2025

For Petitioner : Mrs.Narmadha Sampath

ORDER

This Civil Revision Petition has been filed seeking a direction to the District Commercial Court, Salem, to number the suit filed under O.S.SR.No.150 of 2025, by removing the objections raised in respect of the Interlocutory Applications filed under Order 38 Rule 5 of the Code of Civil Procedure Code

2. Heard Mrs.Narmadha Sampath, the learned counsel for the petitioner and perused the records.

3. The revision petitioner is the plaintiff, who filed the suit in O.S.SR.No.150 of 2025 before the District Commercial Court, Salem, seeking recovery of a sum of Rs.2,28,29,576/- from the defendants, together with interest and costs. Even at the stage of numbering of the suit, the District Commercial Court, Salem, has gone into the merits of the claims made by the plaintiff and proceeded to return the plaint, despite compliance having been made by the plaintiff.



C.R.P.No.6229 of 2025

WEB COPY

4. I find that, by the order of return dated 10.11.2025, that the Trial Court has entertained doubts regarding the maintainability of the application filed under Order 38 Rule 5 of the Code of Civil Procedure Code. A perusal of the averments made in the plaint as well as the affidavit in support of the application for attachment before judgment would show that the properties stand in the name of the fifth respondent and that the same have already been sold in his favour.

5. The Court, while registering a plaint or an application, performs only a ministerial function and cannot assume the role of an adjudicating authority by passing judicial orders or by conducting a roving enquiry with regard to the entitlement of the petitioner to the reliefs sought in the suit or the application. In the present case, the revision petitioner has made it clear that no relief is sought against the fifth defendant. In any event, an order of attachment of the property is only a consequential order, which would arise only in the event of the contesting defendants failing to furnish security, despite being called upon to do so.



C.R.P.No.6229 of 2025

6. In such view of the matter, the Trial Court has clearly

Committed an error in returning the plaint as well as the application filed under Order 38 Rule 5 of the Code of Civil Procedure Code. No valid reason has been assigned as to why the suit is kept pending without being numbered. It appears that solely on the ground that the Trial Court entertained doubts regarding the maintainability of the application under Order 38 Rule 5 of the Code of Civil Procedure Code, the suit has also been kept pending without numbering.

7. In the light of the above, the docket order dated 10.11.2025 passed by the District Commercial Court, Salem is set aside. The Registry is directed to return the original plaint, if filed along with this revision, within a period of one week from the date of uploading of a copy of this Court, after obtaining necessary acknowledgement from the counsel for the revision petitioner, so as to enable the petitioner to re-present the same before the Trial Court. Thereafter, within a period of two weeks, the papers shall be re-presented before the District Commercial Court, Salem. On such re-presentation, the District Commercial Court, Salem, is directed to number the suit and the application filed under Order 38 Rule 5 of the Code of Civil Procedure Code, if they are otherwise in order,

4/6



C.R.P.No.6229 of 2025

WEB COPY

without raising any objection with regard to the properties standing in the name of the fifth respondent as on date.

8. In the result, this Civil Revision Petition is allowed. No costs.

05.12.2025

Index : Yes/No
Neutral Citation : Yes/No
Speaking/Non-Speaking Order
kv

To

The District Commercial Court, Salem.



WEB COPY



C.R.P.No.6229 of 2025

P.B.BALAJI, J.

kv

C.R.P.No.6229 of 2025

05.12.2025