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C.R.P. NO.1214 OF 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDER RESERVED ON : 31 / 10 / 2025

ORDER PRONOUNCED ON : 23 / 01 / 2026

CORAM:

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

CIVIL REVISION PETITION NO.1214 OF 2022

AND

C.M.P. NO.6530 OF 2022

1.The Government of Tamil Nadu
Rep. By the District Collector
Namakkal.

2.The District Revenue Officer
Namakkal.

3.The Revenue Divisional Officer
Namakkal.

4.The Thasildhar
Namakkal.

... Petitioners /
Plaintiffs

Versus

Ponnusamy
Uppiliyar Street,
Vettampatti Village & Post,
Namakkal District.

... Respondent /
Defendant

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the Docket Order dated February 25, 2022 passed in Unnumbered O.S.SR.No.448 of 2022 by the Sub Court,



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Namakkal and to direct the Sub Court, Namakkal to take on file the above
plaint and proceed with the case.

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For Petitioners : Mrs.R.Anitha
Special Government Pleader

For Respondent : Notice returned as 'Insufficient
address'. Hence notice is dispensed
with by this Order.

Mr.Sharath Chandran
Amicus Curiae

ORDER

Brief facts that led to the filing of this Civil Revision Petition are thus: The State of Tamil Nadu represented by District Collector, Namakkal, and the District Revenue Officer, the Revenue Divisional Officer and the Thasildhar of Namakkal, are all the plaintiffs in the unnumbered Original Suit in O.S.(SR) No.448 of 2022 on February 10, 2022. The plaint was presented on February 9, 2022. The prayer was for declaration that the Judgment and Decree passed in O.S. No.320 of 2007 are null and void, for permanent injunction not to proceed further with the execution petition in R.E.P. No.14 of 2012 in O.S.No.320 of 2007 and for costs. The Trial Court namely the Subordinate Court, Namakkal returned the plaint in O.S. (SR) No.448 of 2022, stating that the maintainability of the Suit is to be explained by the plaintiffs. On February 25, 2022, the plaint was re-presented along with a memo from plaintiffs on the maintainability of the

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Suit and it included some case laws as well. On the same day, upon perusing the plaint, plaint documents and the memo filed, the Trial Court rejected the plaint without numbering it. Feeling aggrieved by the rejection of plaint under Order VII Rule 11 of 'the Code of Civil Procedure, 1908' ['CPC' for short], the plaintiffs have preferred this Civil Revision Petition under Article 227 of the Constitution of India, praying to set aside the Trial Court's Order of rejection of plaint dated February 25, 2022 and number the plaint.

2. For the sake of convenience, the parties will hereinafter be referred to as per their array in the plaint in O.S. (SR) No.448 of 2022, that is to say the revision petitioners will be referred to as the plaintiffs and the respondent herein will be referred to as the defendant.

PLAINTIFFS' CASE:

3. The plaintiffs' case in O.S. (SR) No.448 of 2022 is that, as per the 1905 Field Measurement Book [FMB], Mittah Survey No.72 of Namakkal Mittah, Namakkal Taluk, Salem District comprised land of a total extent of 9 Acre 48 Cents. As per the 1905 FMB, Survey No.72 had six sub-divisions. The extent comprised in each sub-division, as per 1905 FMB, are as detailed below:



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<i>Survey No.</i>	<i>Sub-division No.</i>	<i>Extent (in Acres)</i>
72	1	0.35
	2	1.60
	3	1.35
	4	1.93
	5	1.89
	6	2.36
Total		9.48

3.1. Further case of the plaintiffs is that sub-division 2 of Survey No.72 is Government land. In 1945, defendant's grandfather namely L.Rangama Naickar, purchased an extent of 40 Cents and an extent of 73 Cents, both within specified four boundaries, out of the total 7 Acre 53 Cents comprised in sub-divisions 3 to 6 of Survey No.72, vide Sale Deed dated June 2, 1945, from one Karuppa Boyan. According to the plaintiffs, Survey No.72/2 does not find place in the aforesaid Sale Deed dated June 2, 1945 and in fact, in the Sale Deed, the southern boundary to second item therein has been shown as *Mittah Poromboke*, which is nothing but the Government Land in Survey No.72/2.

3.2. Later, in the year 1960, the land in Survey No.72 was resurveyed and the sub-divisions were altered and a new FMB was drawn as tabulated

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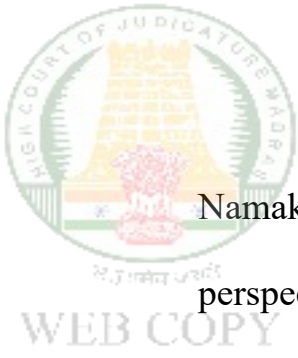


hereunder:

<i>Survey No.</i>	<i>New sub-division (as per 1960 FMB)</i>	<i>Extent (in Acres)</i>	<i>Corresponding old sub-divisions from 1905 FMB</i>
72	1	2.19	5 & 6
	2	3.81	2,3,4,5,6
	3	1.51	3 & 4
	4	0.35	1
	5	0.67	2,3,4,5,6
	6	0.95	2,3,4
<i>Total Extent</i>		<i>9.48 Acres</i>	

3.3. According to the plaintiffs, major portion of the extent of old Survey No.72/2 in 1905 FMB, has been assigned sub-division nos.5 and 6 in the 1960 FMB and they have been clearly described as *Poromboke (Kallanguthu)* Land or in other words, Government Land.

3.4. While so, the defendant filed the Suit in O.S. No.320 of 2007 on the file of the learned District Munsif, Namakkal, against the present plaintiffs 1 and 4, seeking declaration of title and mandatory injunction to register the defendant's name in the revenue accounts and the A-Register, in respect of the suit properties described therein which comprised of 94 Cents in new Survey No.72/5 and 1 Acre 18 Cents in new Survey No.72/6. In the defendant's Suit in O.S. No.320 of 2007, learned District Munsif,



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Namakkal without appreciating the documentary evidence in the right perspective, passed an *Ex-parte* Decree dated July 20, 2007, against the present plaintiffs 1 and 4 who were the defendants therein.

3.5. Only on December 15, 2021, after strenuous efforts, the plaintiffs were able to obtain the 1905 FMB from the Egmore Archives. Only upon obtaining the 1905 FMB and comparing it with the 1960 FMB, the plaintiffs came to know that the new sub-divisions 5 and 6 of Survey No.72 correspond to old sub-division 2 of Survey No.72 and that new sub-division 5 and 6 comprise of Government Lands. According to the plaintiffs, the defendant suppressed the true facts and falsely described the suit properties in his Suit, as if he has right in new sub-divisions 5 and 6 of Survey No.72 corresponding to old sub-division 2, with an ulterior motive to usurp the Government Land. The suit properties therein are not covered under the Sale Deed dated June 2, 1945 and do not belong to the defendant.

3.6. The plaintiffs' attempts to set aside the *Ex-parte* Decree dated July 20, 2007 passed against them went in vein. Hence the Suit in O.S. (SR) No.448 of 2022.

4. The trajectory of the matter to this Court has already been set out



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supra and there is no need to repeat it. On April 27, 2022, when the matter was listed before Hon'ble Mr. Justice N.Seshasayee, this Civil Revision Petition was admitted on the point for consideration "*whether a litigant who was arrayed as defendant in an earlier suit, but has chosen not to contest the suit and allowed an ex-parte decree to be passed, has the right to file a fresh suit alleging fraud on court after exhausting the procedural remedy of setting aside the earlier ex-parte decree*", and Mr.Sharath Chandran, Advocate was appointed as *Amicus Curiae* to assist the Court in deciding the matter.

5. Thereafter, when the matter came up before Hon'ble Mr. Justice V. Lakshminarayanan on April 30, 2024, the learned Single Judge invited the attention of the learned Counsels on either side to the Judgment of a learned Single Judge of this Court in ***K.S. Geetha -vs- Stanley Buck and Dr.P.Sedhu Ammal***, reported in ***AIR 2003 Mad 146***, and invited arguments on the maintainability of a Civil Revision Petition assailing a speaking order of rejection of plaint.

6. Mrs.R.Anitha, learned Special Government Pleader appearing for the Revision Petitioners / Plaintiffs would submit that the defendant



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suppressed the truth and falsely described the suit properties as if the land in new Survey Nos.72/5 and 72/6 belongs to him and obtained an *Ex-parte* Decree which amounts to fraud on the Court. The said facts came to the knowledge of the plaintiffs only after obtaining the 1905 FMB from the Egmore Archives on December 15, 2021. Soon thereafter, the plaintiffs presented the plaint on February 9, 2022. The Trial Court without assigning case number and without following the principles of natural justice, rejected the plaint, by stating that the reliefs sought for in the plaint are not maintainable and is also barred by limitation. She would further submit that the Trial Court did not appreciate the fact that limitation in this case is a question of both fact and law, and hence, it can be decided only after hearing the parties under Order X of CPC or during the course of trial. In any case, the Trial Court ought to have heard the plaintiffs on the point of limitation. The Trial Court failed to do so. As the Trial Court violated the principles of natural justice, this revision under Article 227 of the Constitution of India is maintainable. Accordingly, she would pray to set aside the Docket Order passed by the Trial Court dated February 25, 2022 by invoking the jurisdiction under Article 227 and direct the Trial Court to number the plaint.

7. To be noted, notice to the respondent herein / defendant was

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returned as 'insufficient address'. Considering the facts and circumstances of the case, this Court is of the view that notice to the respondent is not necessary in this Civil Revision Petition and it shall hereby be dispensed with.

8. Mr.Sharath Chandran, learned *Amicus Curiae* appointed by this Court would submit that the Trial Court lost sight of the distinction between seeking a relief and entitlement to a relief. It is for the litigant to seek a particular relief irrespective of the fact as to whether the Court may ultimately grant such relief. The entitlement of a plaintiff to a particular relief cannot be examined without numbering the plaint. That can be done only after considering the defence of the defendants and after considering the evidence available on record. Even while assuming that one among the reliefs sought for is barred by law, the plaint cannot be rejected in part. Further he would submit that when the plaintiffs claim and allege in the plaint that they have gained knowledge of a particular fact which gives right to a cause of action at a particular point of time, the same must be accepted as correct at the stage of Order VII Rule 11 of CPC. Therefore, the proof / correctness of such knowledge cannot be examined at the stage of numbering of the plaint. Proof of knowledge is a matter of evidence and the issue of evidence in such cases is a question of fact and law which can



be decided only after trial. He would draw attention to the Judgment of a learned Single Judge of this Court in ***Kunjamma -vs- Manickam Pillai***, reported in **2025 (4)CTC 798 : 2025 – 3 – L.W.181**, where it was held that numbering a plaint is a judicial act. Further, he relies on the following decisions in support of his submissions:

- (i) Judgment of a learned Single Judge of this Court in ***Hindustan Petroleum Corporation Limited -vs- C.M. Hariraj***, reported in **2002-3-L.W.476**;
- (ii) Judgment of a learned Single Judge of this Court in ***Selvaraj -vs- Koodankulam Nuclear Power Plant India Limited***, reported in **2021-3-L.W.677**;
- (iii) ***Stanley Buck's Case*** [cited *supra*];
- (iv) Judgment of a learned Single Judge of Hon'ble High Court of Andhra Pradesh at Amaravati, in ***Gorripati Veera Venkata Rao -vs- Ethalapaka Vanaja***, reported in **2025 SCC OnLine AP 50**.

9. Heard the learned Special Government Pleader as well as the learned *Amicus Curiae*. Perused the materials available on record.

10. This Court shall first deal with the maintainability of this Civil Revision Petition filed challenging a speaking order of rejection of plaint.

This Court deems fit to refer to Section 2 (2) of CPC which defines



'Decree' as thus:

"2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

x x x x x x x x x x x x x x

x

(2) "decree" means the formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final. It shall be deemed to include the rejection of a plaint and the determination of any question within section 144, but shall not include—

(a) any adjudication from which an appeal lies as an appeal from an order; or

(b) any order of dismissal for default.

Explanation.—A decree is preliminary when further proceedings have to be taken before the suit can be completely disposed of. It is final when such adjudication completely disposes of the suit. It may be partly preliminary and partly final;"

11. Section 96 of CPC reads thus:

"96. Appeal from original decree.—(1) Save where otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie from every decree passed by any Court exercising original jurisdiction to the Court authorized to hear appeals from the decisions of such Court.

(2) An appeal may lie from an original decree passed ex parte.

(3) No appeal shall lie from a decree passed by the Court



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with the consent of parties.

(4) No appeal shall lie, except on a question of law, from a decree in any suit of the nature cognizable by Courts of Small Causes, when the amount or value of the subject-matter of the original suit does not exceed ten thousand rupees."

12. Section 2 (2) of CPC clearly lays down that rejection of a plaint is deemed to be a Decree. Section 96 of CPC provides that appeal lies from every Decree subject to a few exceptions and those exceptions are not a concern while dealing with the present matter. If the Court, after adhering to the principles of natural justice, passed an Order under Order VII Rule 11 of CPC rejecting a plaint, it is deemed to be a Decree and thereby, attracts the appeal remedy under Section 96 of CPC. If such an Order is passed in violation of the principles of natural justice, the High Court can exercise its powers under Article 227 of the Constitution of India and set aside the same [vide ***C.M. Hariraj's Case*** (cited *supra*)]. In this case, the Trial Court without numbering the plaint and without affording sufficient opportunity to the plaintiffs to put forth their case on the point of limitation and to explain the maintainability of the Suit, rejected the plaint vide its Order dated February 25, 2022, which is the Order under challenge. In other words, the Order under challenge was passed in violation of principles of natural justice, and that makes this Civil Revision Petition



filed under Article 227 maintainable, as held in *C.M. Hariraj's Case*.

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13. This Court in *Selvaraj's Case* [cited *supra*], held that the act of numbering the plaint is only a ministerial act and not a judicial one. It was further held that the Court can reject the plaint at the numbering stage itself, only on certain limited grounds. Those limited grounds include the cases where the Court lacks inherent jurisdiction to entertain the Suit [See *V. Vijayakumar -vs- M. Murugadoss*, reported in *2014 (2) MWN (Civil) 617*, where the Suit is expressly barred by a statute, where despite sufficient opportunities, the plaintiff fails to comply with the provisions of Order VII Rule 9 of CPC or where it is apparent on the face of it that the Suit is barred by limitation as a matter of pure question of law [See *Dahiben -vs- Arvindbhai Kalyanji Bhanusali*, reported in *(2020) 7 SCC 366*]. If the question of limitation is a mixed question of fact and law, trial is required and in such a scenario, the plaint cannot be rejected under Order VII Rule 11 of CPC; in such a scenario, the Trial Court must number the plaint and hear the plaintiffs in open court on the point of limitation and only then the Court shall come to a conclusion as to whether the plaint is to be rejected as barred by limitation under Order VII Rule 11 of CPC.

14. Learned *Amicus Curiae* pointed out that a learned Single Judge



of this Court in ***Kunjamma's Case*** [cited *supra*] has held that numbering of plaint rather falls under the category of judicial act and not that of ministerial act. This Court is unable to subscribe to the said view of the learned Single Judge. As held in ***Selvaraj's Case*** [cited *supra*], numbering of a case does not involve significant application of judicial mind, it does not require the Court to understand the plaint primarily on the plane of law, and hence, it is a ministerial act. Either ways, it would not affect the decision in this Civil Revision Petition.

15. Be that as it may, it is a settled legal position that fraud vitiates all solemn acts. If any Order or Decree is obtained by playing fraud on Court, it becomes a nullity. In this regard, reference shall be made to ***S.P. Chengalvaraya Naidu -vs- Jagannath***, reported in (1994) 1 SCC 1. Suppressing a relevant and vital information which puts the party doing so in an advantageous position or which misleads the Court also amounts to fraud.

16. Further, if a Court on demurrer sees that the Suit is barred by limitation or by any law in force at the time of scrutinising the plaint, the Court shall assign Suit number to the plaint, register the same in the Suit Register and post the matter under the cause list caption 'for hearing on



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maintainability'. After hearing the plaintiffs' side in open court and after perusing the plaint and the plaint documents, if the Trial Court is not convinced, it may pass an Order under Order VII Rule 11 of CPC rejecting the plaint. In such a course, the Trial Court would be passing a Fair and Decretal Order, the result of the Suit would be entered in the Suit Register and the same would be updated in the E-Courts portal as well. On the other hand, when the Trial Court chooses to pass an Order without numbering the plaint, it would be difficult to even ascertain the status of the matter or locate the case bundle at a later point of time when the matter is in appeal before the Appellate Court. Further, once a plaint is rejected, the rejection order is deemed to be a Decree as per the definition of Decree in Section 2 (2) of CPC. This requires the Trial Court to draw a formal Decree / Decretal Order upon rejecting plaint; in the absence of a formal Decree / Decretal Order, there would be no appeal possible under Section 96 of CPC. In such a case, the plaint could only be in the case bundle for which numbering the plaint is essential. The possibility of unnumbered suit files being misplaced either inadvertently, or deliberately with the intention of erasing the traces of filing and Court's decision, cannot be ignored. The absence of a suit number renders the proceedings susceptible to irregularities and tampering. All these could be avoided by numbering the Suit.

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17. Firstly in this case, the Trial Court had returned the Original
Plaint to the plaintiffs, with its rejection order annexed to it. Hence,
technically speaking it is not a rejection order. At its best, it can only be
considered as an order of return of plaint. Secondly, the plaintiffs plead that
the (alleged) fraud played by the defendant on the Court came to their
knowledge only on December 15, 2021, when they obtained the 1905 FMB
from the Egmore Archives and that the Suit is not barred by limitation
under Article 59 of the Limitation Act, 1963. The said averments render
the question of limitation in this case a mixed question of fact and law. The
veracity of those averments could be decided only while examining the
parties under Order X of CPC or at the time of trial. In this regard, it is
apposite to cite the Judgment of Hon'ble Apex Court in ***T. Arivandandam***
-vs- T.V. Satyapal, reported in (1977) 4 SCC 467, wherein it was held as
follows:

*"5. ... The learned Munsif must remember that if on a
meaningful — not formal — reading of the plaint it is
manifestly vexatious, and meritless, in the sense of not
disclosing a clear right to sue, he should exercise his power
under Order VII Rule 11 CPC taking care to see that the
ground mentioned therein is fulfilled. And, if clever drafting
has created the illusion of a cause of action, nip it in the bud
at the first hearing by examining the party searchingly under
Order X CPC. An activist Judge is the answer to irresponsible*

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law suits. The trial courts would insist imperatively on examining the party at the first hearing so that bogus litigation can be shot down at the earliest stage. The Penal Code is also resourceful enough to meet such men, (Cr. XI) and must be triggered against them."

[Emphasis supplied by this Court]

18. But in this case, the Trial Court without considering the same and without hearing the plaintiffs on the point of limitation, rejected the plaint without even numbering it. Hence, the approach of the Trial Court is erroneous, in violation of principles of natural justice, and not in consonance with law and therefore, the Order dated February 25, 2022 passed by the Trial Court rejecting the plaint is liable to be set aside.

19. As regards *Stanley Buck's Case* [cited *supra*], when the plaintiff(s) therein presented the plaint, the defendants therein entered appearance and filed an Interlocutory Application under Order VII Rule 11 read with Section 151 of CPC and sought to reject the plaint. The Trial Court in that case, after hearing both sides, allowed the Interlocutory Application and rejected the plaint. The plaintiffs therein preferred a revision over the same before this Court. Unlike the case at hand, the plaint therein was numbered and the Order passed by the Trial Court therein did not suffer from any violation of principles of natural justice. It was in these facts and circumstances, a learned Single Judge of this Court held that only

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appeal would lie over an Order rejecting plaint and not revision. The said ruling is distinguishable on facts and hence, not applicable to the case at hand.

20. No quarrel with the other case law relied on by the learned *Amicus Curiae*, wherein ***Selvaraj's Case*** [cited *supra*] was followed.

21. As regards the point (set out *supra*) raised by his Lordship Hon'ble Mr. Justice N.Seshasayee vide Order dated April 27, 2022, as stated *supra*, it is a settled legal position that fraud vitiates all solemn acts and if any Order or Decree is obtained by playing fraud on Court, it becomes a nullity in the eyes of law. Hence, the plaintiffs being the defendants in O.S. No.320 of 2007 who did not contest the said Suit and allowed an *Ex-parte* Decree to be passed, after exhausting the procedural remedy for setting aside the same, can seek declaration that such an Order, Judgment or Decree as the case may be, is null and void.

22. Before parting, this Court would like to recognise the sincere efforts of Mr. Sharath Chandran, learned *Amicus Curiae* and applaud his assistance to the Court.



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23. As stated *supra*, the Docket Order dated February 25, 2022 passed by the Trial Court rejecting the plaint is liable to be set aside. Consequently, the plaintiffs are directed to re-submit the original plaint along with the plaint documents if any in their hand, before the Trial Court within 15 days from the date of receipt of a copy of this Order. The Trial Court shall assign case number, afford sufficient opportunity, hear on the limitation and maintainability aspect, and if satisfied issue summons to the defendant and proceed with the case as per law. If the Trial Court is not satisfied to entertain the plaint upon such hearing, it shall pass appropriate Order in exercise of its judicial conscience and judicial mind in accordance with law. Needless to mention that the Trial Court shall proceed untrammelled / uninfluenced by the observations made by this Court in this Order, if any, on the merits of the case.

24. Resultantly, the Civil Revision Petition is allowed in the above terms. In view of the facts and circumstances of this case, the Revision Petitioners shall bear their own costs. Connected Civil Miscellaneous Petition shall be closed.

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Neutral Citation : Yes
Speaking Order : Yes
TK

Note to Registry

Registry is directed to return the original plaint annexed in the typed-set of papers to the Revision Petitioners.

To

The Sub Court
Namakkal.



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R. SAKTHIVEL, J.

TK

PRE-DELIVERY ORDER MADE IN
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