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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2021

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.No.89 of 2021

Selvi R.Vidya
D/o.Durai @ Rengasamy

... Petitioner

Vs.

1. Tr.Rengasamy
2. Tt.Jeevaratnam
3. Tr.Balasubramaniam
4. Tr.Manivannan
5. Tr.Balaji
6. Tr.Kalyanaraman
7. Tr.Abdul Salam
8. Tr.Suresh
9. Tr.Sairabanu
10. Smt.Punitha
11. The Sub Registrar,
Kinatthukadavu Sub Registrar Office,
Kinathukadavu,
Coimbtore.

... Respondents

Prayer:

Civil Revision Petition filed under Article 227 of the Constitution of India, pleaded to direct the Principal District Munsif, Madukarai, Coimbatore to number the suit in O.S.R.P.No.1045 of 2020.

For Petitioner : Mr.R.Sankarappan



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ORDER

The limited prayer sought for in the present petition is to direct the Principal District Munsif, Madukarai, Coimbatore to number the suit in O.S.R.P.No.1045 of 2020.

2. The learned counsel for the petitioner would submit that the lower Court failed to see that the return dated 05.11.2020 which relates to the jurisdiction of the Court was explained and the suit was represented and the same was accepted by the Court below. Further the lower Court stated that how this plaint is not maintainable while pending suit before appellate forum, wherein no such suit is pending in any appellate forum. The Court below failed to note that there is no justification for repeated returns. Further the learned counsel for the petitioner submitted that the lower Court was in error in not taking the suit on file when it is clearly stated that the defendants except one are not parties in the suit for partition which culminated into the second appeal. Hence, the learned counsel for the petitioner prays to allow this petition.

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

4. On perusal of the records, it is seen that originally the suit was filed for partition. We are constrained to observe here that the Registry has no authority to return plaints of this nature, questioning the maintainability on legal provision, which can be an issue before the Trial Court alone. There is no provision contemplated either under the Civil Procedure Code or under the Civil Rules of Practice empowering the Registry to return the plaint on these grounds of maintainability.

5. The learned Principal District Munsif, Madukarai, Coimbatore is called upon to instruct his Registry to number the suit in O.S.R.P.No.1045 of 2020, if it is otherwise in order, within a period of one week from the date of receipt of copy of this order.

6. Accordingly, the Civil Revision Petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

sbn



To

The Principal District Munsif,
Madukarai, Coimbatore.

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+1cc to Mr.R.Sankarappan, Advocate, S.R.No.4759

C.R.P.No.89 of 2021

RSV (CO)
CS/19/07/2021