2026:MHC:4308

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16-10-2026

PRONOUNCED ON : 26-10-2026

Case QR

CORAM

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRP No. 4548 of 2023

CNR:{HCMA012106152023}

Pachiammal
W/o. Selvaraj,
No.5/11B, Urigam Salai,
Anjetti Town and Taluk,
Krishnagiri District.

..Petitioner/
Plaintiff

Vs

1. The Village Administrative Officer
   Anjetty.
2. The Revenue Inspector
   Anjetty.

3. The Tahsildar
   Anjetty.

4. The District Collector
   Krishnagiri.

..Respondents/
Defendants

PRAYER in CRP No. 4548 of 2023:

Civil Revision Petition filed under Article 227 of the Constitution of India, 1950, praying to set aside the docket order dated October 30, 2023 returning the unnumbered plaint in OS.No.136 of 2023 by the District Munsif, Thenkanikottai and to direct the learned District Munsif Thenkanikottai to take the plaint on the file and proceed further with the suit.

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For Petitioner(s): Ms.S.Sridevi for Mr.R.Selvakumar

For Respondent(s): Mr.P.Sunil, Government Advocate

O R D E R

This Civil Revision Petition has been filed under Article 227 of the Constitution of India, praying to set aside the Docket Order dated October 30, 2023 returning the unnumbered plaint in O.S. S.R. No.1360 of 2023 by 'the District Munsif Court, Denkanikottai' ['Trial Court' for short] and to direct the Trial Court to take the plaint on file and proceed further with the Suit.

2. According to the revision petitioner / plaintiff, the suit property is a Government Poromboke land which has been under the enjoyment of the revision petitioner / plaintiff and her predecessors-in-title for over 60 years openly, continuously and uninterruptedly and thereby perfected her title by way of adverse possession. While so, the third respondent / third defendant / Tahsildar sent a notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 [Tamil Nadu Act No.III of 1905] calling upon the plaintiff's husband to vacate the suit property. In these circumstances, the revision petitioner / plaintiff presented the plaint on June 2, 2023 seeking the reliefs of declaration of title by way of adverse possession and permanent injunction in respect of the suit property. The same was returned by the Trial Court on the same day stating

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that the Suit is barred under Section 14 of the Tamil Nadu Act No.III of 1905.

The plaint was represented by the revision petitioner / plaintiff on October 30, 2023 with the following remarks:

> *"Represented, as per citation (i) Andhra High Court - Addanki Adi Lakshmamma and Ors. vs. District Collector and Ors. (2007) and (ii) P.Ganesan vs. Commissioner and Ors., Madurai Bench, Madras High Court dated 04.10.2023, this Suit is maintainable. So may be numbered."*

3. *Upon representation, the Trial Court again returned the plaint with the following observation:*

> *"Previous return holds good. The notice issued u/s 7 of the Land Encroachment Act, 1905 and hence proceedings have commenced under the 1905 Act. Once the proceedings have commenced as evidenced by the notice dated 7.2.2023 produced by the Plaintiff, the jurisdiction of the Civil Court is specifically barred u/s 14 of the TN Land Encroachment Act, 1905. The same has been clearly reiterated by the honourable High Court of Madras in The State of Tamilnadu Vs J. Venkatachalam, reported in 2018 LW (5) 234. Hence the suit being not maintainable, the same is returned."*

4. Feeling aggrieved by the same, the present Civil Revision Petition has been filed by the revision petitioner / plaintiff.

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5. Learned Counsel for the revision petitioner would submit that the plaint was presented seeking the reliefs of declaration of title by way of adverse possession and permanent injunction. The revision petitioner / plaintiff did not assail or question the notice issued by the third respondent under the Tamil Nadu Act No.III of 1905 nor the proceedings initiated thereunder. The Trial Court failed to consider the said aspect and erred in returning the plaint on the ground that the Suit is barred under the Tamil Nadu Act No.III of 1905, that too without numbering the plaint. Accordingly, he would pray to allow the Civil Revision Petition, set aside the Docket Order dated October 30, 2023 returning the unnumbered plaint in O.S. S.R. No.1360 of 2023 and direct the Trial Court to take the plaint on file.

6. On the other hand, learned Government Advocate for the respondents / defendants would invite attention to Paragraph No.11 of the plaint and submit that the revision petitioner / plaintiff has herself admitted that she has been paying penal charges [தண்டத்தீர்வை]. Hence, the revision petitioner's possession never turned adverse to the Government. Therefore, the plaint has no legs to stand and the revision petitioner / plaintiff has no cause of action. Further he would submit that, the plaint was presented after issuance of notice under Section 14 of the Tamil Nadu Act No.III of 1905. Though there is no challenge to the said notice and the plaint prayer is for declaration of title and permanent injunction, the revision petitioner is in effect challenging the said notice.

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Hence, the Suit is barred under the said Act. The Trial Court appreciated the facts of the case in the right perspective and rightly returned the plaint. Accordingly, he would pray to dismiss the Civil Revision Petition as devoid of merits.

7. Heard on either side. Perused the materials available on record.

8. On bare perusal of the plaint prayer, the revision petitioner / plaintiff has not challenged the notice issued or the proceedings initiated under Tamil Nadu Act No.III of 1905. Hence, the bar under Section 14 of the said Act does not act as an obstacle in numbering the plaint. In any case, if the Trial Court is of the prima facie view that the Suit is not maintainable for any valid reason, the Trial Court ought to number the plaint and post the matter under the caption of maintainability. Only upon numbering the plaint and hearing the plaintiff qua maintainability in Open Court, the Trial Court shall decide on the maintainability of the plaint and not otherwise. In the present case, the procedure adopted by the Trial Court in returning the plaint without numbering it, that too when the plaint was re-presented once again with case laws cited in support of its maintainability, is erroneous and not justifiable. In this regard, reference may be made to the Order of this Court in ***Government of Tamil Nadu -vs- Ponnusamy***, reported in ***2026 SCC OnLine Mad 767***. Relevant extract reads as hereunder:

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"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 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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9. In the result, in view of the foregoing narrative, this Court sets aside the Trial Court's Docket Order dated October 30, 2023 returning the unnumbered plaint in O.S. S.R. No.1360 of 2023. The revision petitioner / plaintiff may represent the plaint once again within 30 days from today and in such an event, the Trial Court shall number the plaint and post the matter under the caption "for hearing on maintainability", and upon the hearing the revision petitioner / plaintiff in the Open Court qua maintainability, the Trial Court shall decide on the maintainability of the plaint on its own merits untrammelled by any observation made by this Court on merits of the case. The Civil Revision Petition is allowed with the above observation. In view of the facts and circumstances of this case, there shall be no order as to costs.

10. Registry is hereby directed to return the original plaint annexed in the typed set of papers to the learned Counsel for the revision petitioner so as to enable the revision petitioner to represent the same before the Trial Court.

26-10-2026

Index: Yes
Speaking order
Neutral Citation: Yes

JRS

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Order QR

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R.SAKTHIVEL J.

JRS

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