

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

Civil Revision Petition No.2797 of 2017

ORDER:

The petitioner has come up with the above revision, challenging the return of a claim petition filed under Order 21 Rule 97 of the Code of Civil Procedure.

2. Heard the learned counsel for the petitioner.

3. The petitioner filed a claim petition on 12-06-2017 before the Executing Court. On 13-06-2017, the papers were returned raising two objections viz., 1) it should be explained how the claim petition is maintainable at this stage since the decree was passed on the registered mortgage; and 2) correct provision of law to be noted". As against the above return, this revision is filed.

4. But I do not think that the time is ripe for the petitioner to come before this Court. The return was only the first return. The petitioner should re-present the papers explaining how the petition is maintainable. If the Court still has any doubt, the Court should post the application in open Court, hear the counsel for the petitioner and pass a judicial order on the question of maintainability of the application. It is against the order so passed that the petitioner can come up.

5. Therefore, leaving it open to the petitioner to re-present the papers and directing the Court below to pass a judicial order on the question of maintainability, if it still has any doubt, the Civil Revision Petition is dismissed.

The Registry is directed to return the original papers. The petitioner shall re-present the same on or before on 23-06-2017. The Court below shall then consider and pass a judicial order whether the application should be numbered or not, within three days thereafter.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

Date: 20-06-2017

Note: Issue C.C. today

B.O./Ksn

