

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.PONGIAPPAN

Civil Revision Petition (PD) No.4818 of 2014

Mrs.Thangam

Petitioner

Vs

Indian Bank
Ocheri Branch
Rep by its Manager
Ocheri Village
Arakonam Taluk
Vellore District

Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India with a prayer to allow this Revision Petition and direct the District Munsif, Sholinghur to number the petition in S.R.(S.O.P.) No.4013 of 2012 dated 21.12.2012.

For Petitioner : Mr.A.Balasingh Ramanujam

For Respondent : Mr.K.Chandu Suranjan

ORDER

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The Civil Revision Petition has been preferred with a prayer to allow this Revision Petition and direct the learned District Munsif, Sholinghur to number the petition in S.R.(S.O.P.) No.4013 of 2012 dated 21.12.2012.

2. The petitioner in S.R.(S.O.P.) No.4013 of 2012 on the file of District Munsif, Sholinghur is the petitioner herein. On 15.11.2012, the petitioner has filed an application under Section 372 of Indian Succession Act before the said Court seeking the relief for issuing Succession Certificate in favour of the petitioner empowering her to get the amount from respondent's bank, a sum of Rs.79,374/- as described in the schedule. On receipt of the said application, the learned District Munsif on 22.11.2012, returned the same by stating that the petitioner has to prove the maintainability of the petition and also stating that document No.6 enclosed along with the petition, is not related to the claim made by the petitioner. The said defects pointed out by the Registry was complied by the petitioner by saying that the petitioner is the legal heir of the deceased Rajeswariammal, as per Section 15 of Succession Act and as per the Act, the petition is maintainable. Further, the petitioner has made an endorsement that the document no.6 is removed from the list. After doing so, the petitioner represented the petition on 23.11.2012. Again on 03.12.2012, the learned District Munsif, Sholinghur had returned the said petition raising a query as to how the petition is maintainable, for which the petitioner's endorsement was that the petition may be called in public court to submit her legal clarification. Thereafter, instead of calling the petition before the public Court as prayed for by the petitioner, the learned District Munsif returned the petition once again stating that the provisions are not complied with and hence returned. In the said

circumstances, the petitioner is before this Court seeking the relief to direct the learned District Munsif to number the application filed by her and decide the same on merits.

3. Today when the petition came up for hearing, the learned counsel appearing for the petitioner is present and made a submission that instead of calling the petition before the open Court, the learned District Munsif unnecessarily refused to number the application filed by the petitioner, which is nothing but refusing to follow the procedure laid down in Code of Civil Procedure as well as it amounts to refusal to do his duty. However, the learned counsel appearing for the petitioner prayed this Court to issue a direction to the learned District Munsif, Sholinghur to number the application and dispose it on merits.

4. On appraisal of the endorsements made by the learned District Munsif, Sholinghur for returning the plaint, it is clear that from the date on which, the petition was initially presented before the said Court, the learned District Munsif has doubted about the maintainability of the petition. Of course, it is true that the Presiding Officer of the Court is having the duty to check the maintainability of each and every petition before numbering the same. But in this case, for clarifying the doubt of the Presiding Officer, the petitioner herein wanted to call the petition before the open Court for adducing her arguments. In the said

circumstances, the Presiding Officer either ought to have accepted the request of the petitioner nor ought to have passed an order of rejection. Instead of applying the said procedure laid down under Order 7 of Code of Civil Procedure, mere refusal made by the Presiding Officer to number the petition, is unwarranted.

5. Hence, there is no other way except to issue direction to the learned District Munsif, Sholingur to number the application and dispose the same on merits.

6. Accordingly, the Civil Revision Petition is allowed. The learned District Munsif, Sholingur is directed to number the application filed by the petitioner in S.R.(S.O.P.) No.4013 of 2012 and dispose the same on merits and in accordance with law.

7. With the above direction, this Civil Revision petition is allowed. No costs.

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To

The District Munsif Court, Sholinghur

R.PONGIAPPAN, J.,

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