

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2019

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

C.R.P.NO.3270 OF 2019 AND C.M.P.NO.21247 OF 2019

1.Sathyavel
2.Moorthy
3.Murali
4.Arpuham

... Petitioners

-Vs-

1.K.Deivasigamani
2.Pachaiammal
3.Sekhar (Died)
4.Selvam
4.Pavun
5.Malliga
6.Saroja Kirubamalar
7.Jenipher
8.Jayashree
9.Jegan

... Respondents

Prayer :

Civil Revision Petition under Article 227 of the Constitution of India against the docket order dated 19.09.2019 in unnumbered IA in SR.No.1427 of 2019 in O.S.No.228 of 2008 on the file of the District Munsif Court at Sriperumbudur and consequently direct to take on file the above application in unnumbered IA in SR.No.1427 of 2019 in O.S.No.228 of 2008.

For Petitioner : Mr.B.Manoharan

O R D E R

This revision has been filed against the docket order dated 19.09.2019 passed in unnumbered I.A in SR.No.1427 of 2019 in O.S.No.228 of 2008 on the file of the District Munsif Court at Sriperumbudur.

2. The revision petitioner herein is the defendant in the suit before the trial Court, where Advocate Commissioner was appointed, who, after having completed the spot investigation,

seems to have filed a report and the report, according to the learned counsel for the petitioner, is in favour of the defendant and in order to elucidate further to strengthen his case, he wants to examine the Advocate Commissioner. Accordingly, the aforesaid unnumbered I.A., was filed, seeking permission of the Court to examine the Advocate Commissioner on behalf of the defendant. The same was returned by the order dated 19.06.2019, raising a query as to how the petition is maintainable to be stated and additional docket sheet to be enclosed.

3. Prior to the said order dated 19.06.2019, the defendant filed a memo on 14.06.2019 itself, where he has stated the reasons as to why he has filed the memo to seek the indulgence of the Court to permit him to examine the Advocate Commissioner. However, the said application ie., the unnumbered I.A., along with the memo dated 14.06.2019 had been returned along with the docket order dated 19.06.2019 and thereafter, it is the claim of the learned counsel for the petitioner that, though attempt has been made to represent the same and take the I.A., on file and to decide the same on merits, the learned Judge has refused to take the same on file and hence the present revision.

4. I have heard the learned counsel for the petitioner and perused the materials placed before this Court.

5. Since the I.A., is for seeking permission to examine the Advocate Commissioner on behalf of the defendant, it is for the Court to decide whether such permission is to be granted or not on merits. However, without even taking a decision, without even numbering the I.A., at the threshold, the I.A., cannot be rejected or returned, despite a memo to that effect, giving reasons for such prayer, having been filed by the defendant ie., the revision petitioner.

6. In that view of the matter, this Court is inclined to dispose of this Revision Petition, with a direction to the revision petitioner / defendant to re-present the returned unnumbered I.A., along with the memo, to the Court below and on such representation, the same, if it is otherwise in order, be numbered and posted for hearing and accordingly, after hearing both parties, the same shall be decided on merits at the earliest point of time.

7.With this direction, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed. The original filed by the writ petitioner in this revision shall be returned by the Registry to the learned counsel for the revision petitioner, after getting due acknowledgment.

Sd/-
Assistant Registrar (CJ Conf.)

//True Copy//

Sub Assistant Registrar

KST

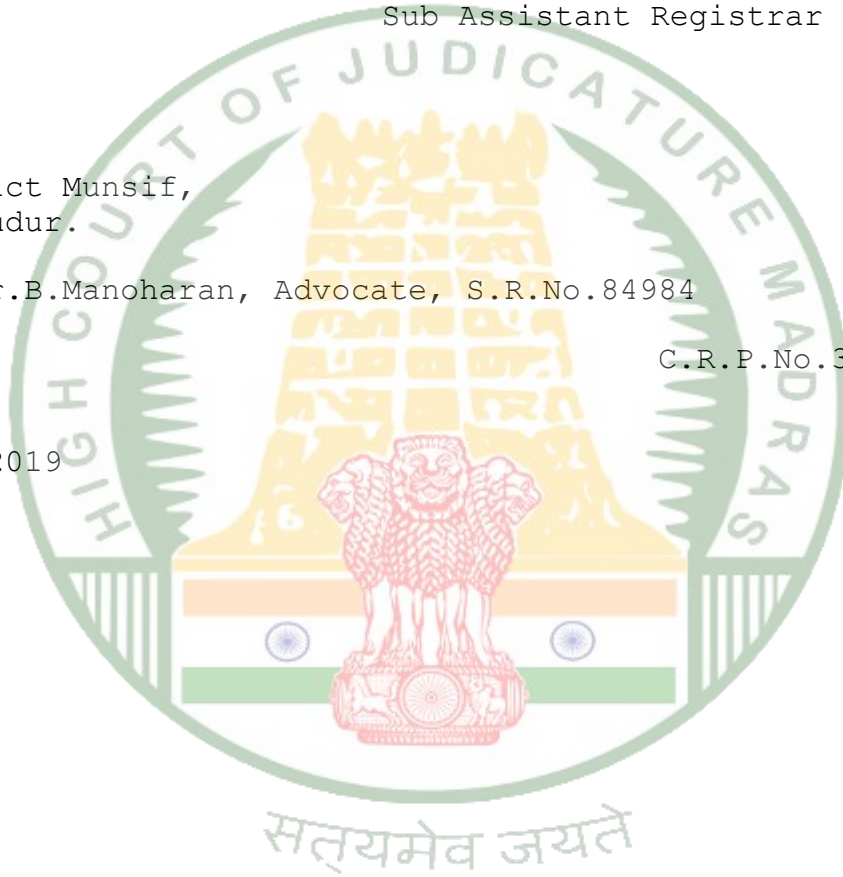
To

The District Munsif,
Sriperumbudur.

+1cc to Mr.B.Manoharan, Advocate, S.R.No.84984

C.R.P.No.3270 of 2019

NMI (CO)
CS/19/12/2019



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