



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2021

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P (MD)No.1728 of 2021

P.Arun Bala

... Petitioner

Vs.

1.A.Gurusamy Chettiar
2.S.Raju
3.Mutharasan
4.Mani
5.G.Azhaguraj
6.A.Ganesh
7.M.Ganesan

... Respondents

PRAYER:- Civil Revision Petition filed under Article 227 of Constitution of India, to direct the Principal District Court, Tirunelveli, to number the petition in unnumbered I.P.SR.No.F/1114 of 2021 and decide the same on merits by allowing this revision and direct the registry to return the original petition, which is the impugned one in the civil revision petition.

For Petitioner : Mr.H.Arumugam

ORDER

The above petition has been filed by the petitioner challenging the return made by learned Principal District Judge, Tirunelveli, on 30.09.2021.

2.The learned counsel appearing for the petitioner would submit that despite their complying with the return made by the learned Principal District Judge as to how the suit was maintainable before the District Court, when the Provincial Insolvency Act has been repealed, once again returned the same showing the very same reason. The docket entries would indicate that originally when the return was made on 21.04.2021, the same was re-presented by the plaintiff on 28.04.2021 without complying with the return. Once again the papers were returned on 21.04.2021 stating that the previous return had not been complied with. This return has been re-presented on 13.08.2021 giving the necessary provision under which the petitioner had instituted the suit on the file of the Principal District Judge, Tirunelveli. Thereafter, the Principal District Judge has returned the papers on 13.09.2021 showing the following reasons:-



- 1.Necessary lodgment schedule to be produced.
- 2.Correct Court fee Section and amount to be filled and sufficient Court fee to be paid
- 3.For previous direction is not complied.

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3.From the earlier returns, it appears that the learned Judge had considered only the factum of the maintainability of the suit before this Court in the light of the Insolvency Act being repealed. After the petitioner had re-presented the papers on 13.08.2021, the court has looked into the other details. Admittedly, paragraph 11 of the plaint deals with the Court fee, which is blank and the same has not been filled up.

4.In these circumstances, this Civil Revision Petition is disposed of with a direction, directing the petitioner to comply with the returns and re-present the papers. Within a week of such representation, the learned Principal District Judge, Tirunelveli, shall pass necessary orders for taking the suit on file. In case, the learned Judge once again entertains any doubt, he shall call the matter in the open Court and hear the learned counsel and thereafter pass orders. The entire exercise shall be completed within a period of two weeks from the date of receipt of a copy of this order. No costs.

5.Registry is directed to return the original plaint to the petitioner, after getting necessary acknowledgements.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cp

Note In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:-

The Principal District Court,
Tirunelveli.

<https://hcservices.ecourts.gov.in/hcservices/>



Copy to

The Section Officer, E.R.Section,
Madurai Bench of Madras High Court,
Madurai

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-34369[F] dated 12/11/2021)

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PS (CO)
KB(08.12.2021) 3P 4C