



C.R.P.No.2606 of 2022

R.N.MANJULA.J.

The matter has been listed today under the caption “for being mentioned”.

2. The learned counsel for the petitioner submitted that the plaint of the suit is kept along with this Civil Revision Petition and he requires the same for re-presenting before the Court below.

3. In view of the above submission, Registry is direct to return the plaint of the suit for re-presenting the same before the Court below within a period of two weeks from the date of receipt of a copy of this order.

14.02.2023

gsk



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P.(PD).No.2606 of 2022

R.Ravikumar

...Petitioner

..Vs.

1.A.R.Selvaraj
2.The Executive Engineer and
Administrative Officer,
Tamil Nadu Housing Board,
Erode Housing Unit,
Surampatti Four Roads,
Erode Taluk and District.

...Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, to direct the learned Subordinate Judge, Erode to number the UN.O.S.No.F-25 of 2022.

For Petitioner : Mr.C.Ramaraj
for Mr.M.Guruprasad

ORDER



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This Civil Revision Petition has been preferred seeking a direction to the learned Subordinate Judge, Erode to number the UN.OS.No.F-25 of 2022.

2.The revision petitioner is the plaintiff, who has filed the said suit for the relief of specific performance against the respondents/defendants. Originally the plaint was presented on 03.01.2022. However it was returned on 11.01.2022. The suit was represented on 20.01.2022 and it was again returned on 03.02.2022 for various reasons stated below:

“1.How this suit is filed within the period of limitation?

2.The value of the suit differs from the agreement dated 13.02.2006 the same has to be explained?

3.When the 1st defendant in the suit is not having a value title deed. How the specific performance relief can be sought for against 1st defendant to be explained?

4.When no relief sought for against 2nd defendant why



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T.N.H.B has arrayed as a 2nd defendant in the suit has to be explained?

5. When the 2nd defendant is not part in the agreement dated 13.02.2006, why 2nd defendant arrayed as a part in the suit?

6. List document No.9 correct dated to be mentioned.

Hence returned.”

3. Thereafter, the learned counsel for the plaintiff represented the plaintiff by giving due clarification to the written endorsement made by the Trial Court. However, the plaintiff was neither taken on file nor rejected as not maintainable. At last on 01.06.2022, once again an elaborate written endorsement was made. If the learned trial Judge has not specified about the maintainability of the plaintiff for the various reasons assigned by him in his written order dated 01.06.2022, it is up to the learned trial Judge to invite the submissions of the learned counsel for the plaintiff on the point of maintainability of the plaintiff and pass an order either to take the plaintiff on file or to reject the plaintiff as not maintainable for the reasons assigned. There is no point in returning the plaintiff for the very same reason repeatedly.



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4.The learned counsel for the plaintiff is also at liberty to request the matter to be called in open Court in order to hear the submissions as to the maintainability. In that case, it will be possible for the learned trial Judge to hear about the point of maintainability and pass an appropriate order in this regard.

5.With the above observations, this Civil Revision Petition is disposed of. No costs.

17.08.2022

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Index:Yes No

Speaking Order:Yes/No

To

1.The Subordinate Judge,
Erode.

2.The Section Officer,
VR Section, Madras High Court, Chennai.

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R.N.MANJULA,J.

Vkr



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17.08.2022