



C.R.P.No.2953 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.2953 of 2022

1.N.Manjula

2.Bellamma

... Petitioners

Vs

1.Madevamma

2.Basuvanna

3.Madevamma

4.Nagamma

5.Anandraj

6.Kumar

7.Madhesh

8.Saroja

9.S.R.Prakash Prabu

10.S.R.Prabu

... Respondents



C.R.P.No.2953 of 2022

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to direct the learned Principal District and Sessions Judge, Erode to number the plaint in OS CFR No.9409 of 2021 dated 11.11.2021 and proceed in accordance with law.

For Petitioners : Mr.N.Manokaran

ORDER

The revision petitioner seeks a direction to the Principal District Judge, Erode, to number the plaint in OS CFR No.9409 of 2021.

2. A perusal of the returned plaint filed along with this revision petition would suggest that the plaint was presented on 11.11.2021 and the same was returned by the Court below on 16.11.2021 by pointing out as many as sixteen defects.

3. The learned counsel for the revision petitioners/plaintiffs represented the plaint on 01.12.2021 giving his explanation for each and every defects pointed out by the Court below. The plaint was again returned on 02.12.2021 stating that the previous returns in Sl.Nos.1, 3, 4, 5 & 7 are still to be



C.R.P.No.2953 of 2022

complied with. The learned counsel for the revision petitioners/plaintiffs again represented the plaint on 04.12.2021 and requested the Office to call the matter in open Court. However, the plaint was again returned on 23.12.2021 at the request of the revision petitioners on 19.01.2022 stating that the previous returns would still hold good.

4. When the learned counsel for the revision petitioners/plaintiffs represented the plaint, giving the explanation for each and every defects pointed out by the Court, the Court below is expected to consider it and pass appropriate orders. In the case on hand, as per the request made by the learned counsel for the revision petitioners/plaintiffs, to call the matter in open Court for hearing the matter, the case was called in open Court on 23.12.2021 and the plaint was returned again at the request of the revision petitioners. Therefore, we cannot find fault with the procedure adopted by the Court below, as the revision petitioners also contributed to delay by making a request to return the papers.



C.R.P.No.2953 of 2022

WEB COPY 5. The plaint which was presented on 11.11.2021 is kept pending for nearly 10 months without assigning any proper reasons. Keeping the plaint at unnumbered stage for a long time, would certainly affect the right of legal remedy and right to speedy justice, which are essential facets of fundamental right to life guaranteed under Article 21 of the Constitution of India. The denial of legal remedy and speedy justice would affect right of the citizens to live with dignity. In cases where Courts finds defects in the papers presented by litigants, it has to return the papers comprehensively pointing out all the defects at once. If the papers are represented with the explanations for returns, the Court shall consider it and if satisfied, cause papers shall be assigned with case numbers. If the Court is not satisfied with the explanations submitted by the litigant, it shall call the case in open court and afford an open court hearing and then pass considered order as it deems fit. Returning the unnumbered cause papers repeatedly either by pointing out new defects in instalments by pointing out earlier returns again and again is not desirable. The open court hearing and reasoned order is the least expectation of the litigant. A person knocking at the Temple of Justice cannot



be made to wait for months together even without knowing his case number and likely fate of his cause papers.

6. This Court in the case of “**Selvaraj Vs Koodankulam Nuclear Power Plant India Limited Represented through its Project Director, Koodankulam, Ramanathapuram Taluk, Tirunelveli District and others**”, reported in 2021 (4) CTC 539, has observed as follows:-

"29. To sum up, the Court may reject the Complaint before numbering and entering it in the Register of Suits, if from a reading of the Complaint, it is seen that the Suit is barred by any law, or if it suffers from any procedural infirmity, adumbrated supra. The Court, at that stage, cannot and is not expected to conduct a roving Enquiry into the merits of the matter by testing the correctness of the Complaint-averments even prior to its institution."

7. In the case on hand, as per the request made by the petitioners in open court hearing, the Court below returned the complaint again. Aggrieved by the same, the revision petitioners preferred this revision petition. In the facts and circumstances of the case, this Court feels that it is suffice to issue a direction to the petitioners to represent the papers with a request for open Court hearing.



C.R.P.No.2953 of 2022

8. Therefore, I am inclined to issue a direction to the Court below to afford an opportunity to the learned counsel for the revision petitioners/plaintiffs to explain his stand, with regard to the defects pointed out in the return, in the open Court hearing and thereafter, the Court below is directed to pass a considered order in the light of the direction in the case law cited supra.

9. With the above direction, this Civil Revision Petition stands disposed of accordingly. No costs.

20.09.2022

Index : Yes / No

Speaking Order : Yes / No

arb

Note:

Registry is directed to return the original plaint to the learned counsel for the revision petitioners.



C.R.P.No.2953 of 2022

WEB COPY To

The Principal District and Sessions Court,
Erode.



WEB COPY



C.R.P.No.2953 of 2022

S.SOUNTHAR, J.

arb

C.R.P.No.2953 of 2022

20.09.2022