



C.R.P.No.3014 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.3014 of 2022

Uma Devi

... Petitioner

VS

1.Rathinasabathi

2.The District Collector,
O/o. District Collector,
Nagapattinam District.

3.The Block Development Officer,
Kilaiyur Union Office,
Kilaiyur Taluk, Nagapattinam District.

4.The Village Administrative Officer,
Venmanachery Panchayat Board,
Venmananchery, Nagapattinam District.

5.Barakath Nisha

6.Abdul Kaboor

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to direct the learned District Munsif Court, Nagapattinam to number the application in I.A.SR.No.3966 of 2020 filed by the petitioner and dispose on merits within the time frame.

For Petitioners : Mr.S.Sadasharam



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For Respondent : Mr.R.Venkatesulu
for Mr.Usha Ramman

ORDER

The Civil Revision Petition is filed by the petitioner/5th defendant in the suit seeking a direction to the Court below to number the petition in I.A.SR.No.3966 of 2020 filed by the petitioner and dispose of the same on merits.

2. The 1st respondent herein filed a suit for declaration of easementary right and for consequential mandatory injunction to remove the construction put up by the defendants 4 to 6 in the suit property. The defendants 4 to 6 failed to appear before the Court below and therefore, an *exparte* decree was passed against them on 05.03.2019. The petitioner herein who was arrayed as 5th defendant in the suit filed a petition to set aside the *exparte* decree in I.A.SR.No.3966 of 2020 and the same was returned by the Court below on 31.01.2022 raising the question of maintainability and other defects. Aggrieved by the same, the petitioner is before this Court seeking a direction to the Court below to number I.A.SR.No.3966 of 2020.

3. If the petition filed by the revision petitioner is returned by the Court



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below pointing out certain defects, it is for the petitioner to represent the petition by offering his explanation. If the Court below is satisfied with the explanation offered by the petitioner, it shall proceed to number IA and dispose of the same in accordance with law. If the Court below is not satisfied with the explanation offered by the petitioner, it is expected to call the matter in open court and hear the petitioner on the objections raised by Court and pass a considered order on merits. Therefore, the petitioner is directed to represent the returned the papers offering his explanation to the defects pointed out by the Court below in its return dated 31.01.2022, within a period of two weeks from the date of receipt of a copy of this order. On such representation, the Court below is directed to proceed with the matter as indicated above.

4. With these observations, the Civil Revision Petition is disposed of.
No costs.

30.11.2022

Index : Yes / No
Speaking Order : Yes / No
dm



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To

The District Munsif Court,
Nagapattinam.



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S.SOUNTHAR, J.

dm

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