



CRP.No.3337 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.3337 of 2022

and

CMP.No.17709 of 2022

M.Nagaraj

... Petitioner

Vs.

P.Ramachandiran
Respondent

...

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to direct the learned I Additional District Munsif Court, Coimbatore, to number the E.A. Petition in un-numbered E.A.S.R.No.14919 of 2022 in E.P.No.195 of 2022 and to decide the same on merits in accordance with law within a time frame fixed by this Court, by allowing this Civil Revision Petition.



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For Petitioner : Mr.S.Anbazhagan

ORDER

This Civil Revision Petition is filed, seeking a direction to the I Additional District Munsif, Coimbatore to number the stay petition filed by the revision petitioner in E.A.SR.No.14919 of 2022.

2. According to the petitioner, the respondent herein obtained an eviction order against him in RCOP.No.54 of 1999 and the same was confirmed by the High Court in CRP.(NPD).No.5 of 2019 by the order dated 27.05.2022. According to the petitioner, he received a certified copy of the High Court order on 24.08.2022 and he has taken steps to file Special Leave Petition before the Hon'ble Supreme Court of India. Since the respondent filed E.P.No.195 of 2018 and pressed for the execution of the eviction petition, the instant application has been filed by the petitioner seeking stay of execution proceedings to enable



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him to file Special Leave Petition before the Hon'ble Apex Court and get stay.

3. The petition was returned by the Executing Court on 30.06.2022 with a query as to how the petition was maintainable. The revision petitioner represented the same by mentioning that the Executing Court has got power to grant stay of execution under Order XXI Rule 26 of CPC. The Executing Court returned the papers again and again on 06.07.2022, 08.06.2022 and 12.09.2022. If the Court is not satisfied with the explanation offered by the litigant for the query raised, it is desirable to call the matter in the open Court and offer an opportunity to the litigant to put forth his case and pass a considered order. In the case on hand, the procedure adopted by the Court below in returning the application continuously is not desirable.

4. The petitioner only seeks stay of execution to enable him to file Special Leave Petition before the Hon'ble Apex Court within



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time allowed by law. In the facts and circumstances of this case, the Court below is directed to number the E.A.S.R.No.14919 of 2022 and dispose of the same in accordance with law.

S.SOUNTHAR, J.

dna

5. With the above direction, this Civil Revision Petition is disposed of. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

18.10.2022

Index : Yes / No

Internet : Yes / No

dna

Note: The Registry is directed to return the original petition filed by the petitioner in E.A.SR.No.14919 of 2022 to the counsel for the petitioner.

To

The I Additional District Munsif Court, Coimbatore.

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