



WEB COPY



C.R.P.No.3359 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2022

CORAM

THE HON'BLE MR. JUSTICE S.SOUNTHAR

C.R.P. No.3359 of 2022

R.Vanishree

..Petitioner/
Petitioner

Prayer:- Civil Revision Petition filed under Article 227 of Constitution of India, to direct the learned Principal Judge, City Civil Court, Chennai to entertain, number the H.G.M.O.P.Sr.No. 3400 of 2022 which was periodically returned and hear the petition on merits and decide the same.

For Petitioner : Mr.R.Prabakar

ORDER

This Civil Revision Petition is filed seeking a direction to the Principal Judge, City Civil Court, Chennai to entertain the petition filed by petitioner under Section 8(2) of the Hindu Minority and Guardianship Act, seeking leave of the Court to withdraw the amount from the Fixed Deposit stands in the name of minor V.K.Vishal Varshan.

2. Having regard to the limited prayer made in this revision, this



C.R.P.No.3359 of 2022

Court is inclined to dispose of the Civil Revision petition even without notice to the respondent.

3. The perusal of the return made by the Court below would suggest that the petition was presented by the revision petitioner herein on 02.03.2022 and the same was returned on 05.03.2022 raising a query how the petition was maintainable under Hindu Minority and Guardianship Act along with other queries by pointing out other defects. The petitioner herein re-presented the papers on 16.03.2022 offering her explanation for the defects raised by the Court below. Thereafter, the papers were returned by the Court below on 23.03.2022 and 27.06.2022 reiterating the very same objection. The petitioner re-presented the papers on 28.06.2022 requesting the Court to call the matter in open Court to decide the question of maintainability. Even thereafter the matter was returned on 19.07.2022 mentioning the very same objection.

4. When a litigant approaches the Court with a prayer and the Court has a doubt with regard to maintainability of the application, it has to return the papers pointing out all the defects in the petition. When papers are re-presented by the litigant offering his explanation for the defects pointed



C.R.P.No.3359 of 2022

out, if the Court is satisfied with the explanation, it can proceed to number the case. In case, the Court is not satisfied with the explanation offered by the litigant, it has to call the case in the open Court and afford an opportunity of open Court hearing to the litigant to explain his/her contention with regard to the objection made by the Court. Without following the said procedure, returning the papers again and again would certainly violate the rights available to the litigant for speedy disposal, which is part and parcel under Article 21 of Constitution of India. Therefore, this Court is inclined to issue a direction to the Court below to call the matter in the open Court, hear the petitioner and pass a considered order in accordance with law. Accordingly, this Civil Revision petition is disposed of. No costs.

5. The Registry is directed to return the original petition filed by the petitioner in HGMOP SR No.3400 of 2022 to the learned counsel for the petitioner.

19.10.2022

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Internet
Index: Yes/No
Speaking Order: Yes/No

S.SOUNTHAR.J.,



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To
Principal Judge, City Civil Court, Chennai

C.R.P.No.3359 of 2022

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