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CRP.No.3653 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

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CMP.No.19383 of 2022

M.Sampath (Deceased)

1.Balajothi

2.Murali

3.Geethanjali

4.Subashini

... Petitioners

Vs.

V.Alalasundaram

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to direct the learned Additional Sub-Court, Chengalpattu, to number the unnumbered E.A.SR.No.5356 of 2022 application filed by the petitioners in E.P.No.46 of 2021 in O.S.No.152 of 2016.

For Petitioners : Mr.C.P.Shibukumar



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ORDER

This Civil Revision Petition is filed, seeking a direction to the Court below to number the Execution Application filed in E.A.SR.No.5356 of 2022.

2. The petitioners herein suffered a decree for eviction in O.S.No.152 of 2016. The respondent/decreed holder filed an execution petition in E.P.No.46 of 2021. In the said EP, the petitioners were set exparte owing to their none appearance. Thereafter, the petitioners filed an instant Execution Application in E.A.SR.No.5356 of 2022 seeking to set aside the exparte order dated 28.07.2022. The said application was returned by the Court below by referring Order 21 Rule 106 of CPC. Aggrieved by the same, the petitioners have come up with this revision.

3. If the Execution Application filed by the petitioner is



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returned by the Court below by pointing out certain defects, it is for the petitioners to offer their explanation and re-present the same. In case, the application is re-presented with the explanation of the petitioners, the Court below is expected to consider the same and if it is satisfied with the explanation offered by the petitioners, Execution Application shall be numbered and disposed of in accordance with law.

4. If the Court is not satisfied with the explanation offered by the petitioners, the matter shall be called in open Court and after hearing the learned counsel for the petitioners in Open Court, the Court below is expected to pass a considered order.

5. In view of the same, the petitioners are directed to re-present the Execution Application in EA.SR.No.5356 of 2022 within a period of two weeks from the date of receipt of copy of this order. On such re-presentation, the Court below is expected to follow the



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procedure indicated above and dispose of it in accordance with law.

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S.SOUNTCHAR, J.

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

30.11.2022

Index : Yes / No

Internet : Yes / No

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Note: The Registry is directed to return the original Execution Application filed by the petitioner in E.A.SR.No.5356/2022 to the learned counsel for the petitioner.

To

The Additional Sub-Court, Chengalpattu.

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and
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