



CRP No.4281 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23-12-2022

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

CRP No.4281 of 2022

K.Chinnasamy

.. Petitioner

vs.

1.M.Maruthachalam

2.V.R.Krishnamoorthy

.. Respondents

PRAYER : This Civil Revision Petition is filed under Article 227 of the Constitution of India directing the learned Principal District Judge, Coimbatore to number the petition dated 21.09.2022 in CFR No.4566 of 2022 instead of returning the plaint on various dates namely 29.09.2022 and 08.11.2022.

For Petitioner : Mr.N.Ponraj



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ORDER

The present Civil Revision Petition has been instituted to direct the learned Principal District Judge, Coimbatore to number the petition dated 21.09.2022 in CFR No.4566 of 2022 instead of returning the plaint on various dates namely 29.09.2022 and 08.11.2022.

2. The revision petitioner filed HMOP seeking permission to sell a portion of the property belongs to the minor C.Jaswanth Rajan and to adjust the sale consideration for the purchase of 'B' schedule house property in the name of his minor and to execute the Sale Deed on his behalf the purchaser-second respondent or his nominee.

3. The Registry-District Judiciary returned the petition noting down certain defects. The revision petitioner represented by stating that



“attended and re-presented”. However, the revision petitioner has not stated whether all the six defects noted down by the Registry were complied with by providing required documents and clarifications. Mere endorsement that the defects were attended and re-presented would be insufficient to form an opinion that the revision petitioner had complied with all the defects noted by the Registry-District Judiciary. Every such defect point-wise raised by the Registry is to be complied with by furnishing complete details regarding the compliance made by the petitioner. Contrarily, they cannot merely make an endorsement that “attended and re-presented”, which would be insufficient to form an opinion that the petitioner had complied with all the defects raised by the Registry for the purpose of returning the case papers.

4. No doubt, if the defects are properly complied with by the petitioner and still the Registry raises a doubt regarding the compliance thereafter the case is to be placed before the Court concerned for deciding the question of maintainability.



5. In this regard, the Registry has to put up a note along with the case papers, enabling the Court to decide the issues on merits and in accordance with law and to pass a judicial order, enabling the petitioner to prefer further appeal/revision before the Higher Forum.

6. In other words, compliance by the petitioner need not be to the satisfaction of the Registry-District Judiciary. If the Registry is not satisfied with the compliance made by the petitioner, it has no option, but to place the papers before the Court for hearing on the issue of maintainability. Therefore, the Registry cannot venture into judicial adjudication of the issues regarding the maintainability and such adjudication must be done in the Open Court by hearing the learned counsel, who presented the case papers before the Registry. Thus a distinction is to be drawn when to list the matter before the Open Court for hearing regarding the maintainability issue.

7. Mere returning of the case paper is not a judicial order. It is a



quasi administrative order, wherein the Registry has found certain defects in presentation of a case and such defects are to be administratively complied with by the person, who presented the case papers to the Registry. In the event of not complying with the defects to the satisfaction of the Registry, then the Registry has to post the matter before the Open Court for hearing for the purpose of deciding the maintainability issue or to clarify the legal position or otherwise.

8. Thus the Registry in the present case ought to have placed the papers before the Court concerned for deciding the issues. However, the petitioner, in the present case, has not complied with the defects by stating properly in his compliance endorsement. Each defects noted down by the Registry is to be complied with by stating the reasons.

9. In the present case, the petitioner has merely stated “attended and re-presented”, which would be insufficient for the purpose informing the Registry that the petitioner has complied with the defects.



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10. In view of the facts and circumstances, the petitioner is at liberty to re-present the case papers once again, by submitting a proper compliance report with the details and even thereafter if the Registry-District Judiciary is not satisfied with the compliance report, then the Registry has no option but to post the matter before the Court concerned for the purpose of deciding the issue of maintainability on the judicial side. The Registry is directed to return the original copy of the petition to the learned counsel on record.

11. With the abovesaid observations, the present Civil Revision Petition stands disposed of. However, there shall be no order as to costs.

23-12-2022

Speaking Order/Non-Speaking Order.

Internet : Yes/No.

Index: Yes/No.

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To

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The Principal District Judge,
Principal District Court,
Coimbatore.



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S.M.SUBRAMANIAM, J.

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