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CRP.No.973 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2023

CORAM:

THE HONOURABLE MRS.JUSTICE **T.V.THAMILSELVI**

CRP.No.973 of 2023

Gowri

... Petitioner

Vs.

1.R.Elangovan

2.Pushpa

3.The Superintending Engineer,
(Operation and Maintenance) (South),
TANGEDCO, Kanchipuram Electricity Division,
Kanchipuram

4.The Assistant Executive Engineer,
(Operation and Maintenance) (South),
TANGEDCO, Uthiramerur Electricity Division,
Uthiramerur

5.The Junior Engineer, (Town),
TANGEDCO, Uthiramerur Electricity Division,
Uthiramerur

... Respondents

PRAYER: Civil Revision petition is filed under Article 227 of the Constitution of India to set aside the docket order dated 30.11.2022 in OS.SR.No.6489 of 2021 and consequently direct the learned Sub Judge, Kancheepuram to number the plaint and dispose the same in accordance with law.

For Petitioner : Mr.S.Ramesh



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ORDER

Challenging the docket order dated 30.11.2022 passed in OS.SR.No.6489 of 2021 by the learned Sub Judge, Kancheepuram, the plaintiff is before this Court.

2. The learned counsel for the revision petitioner argues that he filed suit for recovery of possession and removal of electricity connection of the suit property. He filed suit against five defendants and presented on 06.09.2021. However, the same was returned on 13.09.2021 by the trial Judge endorsing as follows:

a) Suit for recovery of possession of immovable property, correct CF amount to be stated and CF provision to be mentioned

b) How the suit is maintainable as against D3 to D5 to be stated

c) Total jurisdiction value to be correctly mentioned and total CF amount to be correctly mentioned

*d) One more docket sheet to be filed
Retd. Time one month*

Again he re-presented, but the same was returned.



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3. The learned counsel for the petitioner submits that the trial court on each hearing invented a new reason and returned the plaint without assigning any number and also raised objection that already suit in OS.No.99 of 2008 was decided against the plaintiff with regard to recovery of possession. Apart from that, the trial judge assigned various reasons to take the same on file.

4. On perusal of return made by the trial Judge, on each occasion, he assigned some reason to return the plaint. In fact, the trial Judge ought to have returned the plaint for objection at one time in a peaceful manner. However, with regard to the prayer of the recovery of possession, the previous return was made. On seeing the prayer, if at all the remedy of the plaintiff was already decided, that ought to have decided in the trial proceedings and not by before numbering the suit. Reason assigned by the trial Judge to return the plaint as such it is a written statement. Further, the defence raised in respect of the suit is narrated in the return of the plaint, as such it is not advisable.

5. Therefore, the trial Judge is directed to take the case on file within two weeks from the date of receipt of this Order.



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6. With the above direction, this civil revision petition is disposed of. There shall be no order as to costs. Registry is directed to return the original plaint to the revision petitioner within a period of one week.

31.03.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order
lok

Note: Issue order copy on 10.04.2023



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T.V.THAMILSELVI, J.

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To

- 1.The learned Sub Judge,
Kancheepuram
- 2.The Superintending Engineer,
(Operation and Maintenance) (South),
TANGEDCO, Kanchipuram Electricity Division,
Kanchipuram
- 3.The Assistant Executive Engineer,
(Operation and Maintenance) (South),
TANGEDCO, Uthiramerur Electricity Division,
Uthiramerur
- 4.The Junior Engineer, (Town),
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