



CRP.No. 3377 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2023

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

CRP.No. 3377 of 2023

N. Dhandapani

.. Petitioner

Versus

1.N. Rajeswari

2.N.Kamatchi

3.N.Latha

.. Respondents

Civil Revision Petition is filed under Article 227 of the Constitution of India, prays to set aside the endorsements dated 23.08.2023 made in the unnumbered Interlocutory application of 2023 in O.S.No. 4130 of 2022 by the XVIII Additional City Civil Court, and consequently to direct the XVIII Additional City Civil Court, Chennai to entertain the Unnumbered interlocutory application of 2023 in O.S.No. 4130 of 2022.

For Petitioner

: Dr.C.Ravichandran

For Mr.S.B.Viswanathan



CRP.No. 3377 of 2023

WEB COPY

ORDER

Heard the learned counsel for the petitioner and perused the records.

2. This Civil Revision Petition is filed by the petitioner aggrieved by the return endorsement made by the XVIII Additional City Civil Court, Chennai, in unnumbered IA of 2023 in O.S.No. 4130 of 2022, dated 23.08.2023.

3. The petition filed by the petitioner/defendant, seeking to inspect the petition/plaint schedule property, measure the exact extent of the building in each floor with the help of a civil engineer and file a detailed report regarding the age and extent of the building constructed in each floor along with sketch and photographs, has been returned by the XVIII Additional City Civil Court, Chennai, on the ground that there is no necessity for assessing the age of the building at this stage. If at all the petitioner wants to prove the age of the building it can be done by other relevant proofs.



CRP.No. 3377 of 2023

WEB COPY

4. Considering the limited relief sought for, notice to the respondent is deemed unnecessary.

5. Now, the learned counsel for the petitioner submit that as per the decision rendered in SLP (CRL).No. 1832 of 2019, dated 29.03.2019 of the Supreme Court of India, the petitioner's application should not be returned. In this regard, it is relevant to extract para Nos.8 & 9 of the said decision, which reads as follows:-

“8.We are only concerned with the question whether Registry could have questioned the maintainability of the Petition.

9. The act of numbering a petition is purely administrative. The objections taken by the Madras High Court Registry on the aspect of maintainability requires judicial application of mind by utilizing appropriate judicial standard. In this context, we accept the statement of the Attorney General, that the determination in this case is a judicial function and the High Court Registry could not have rejected the numbering.”



CRP.No. 3377 of 2023

WEB COPY

6. Considering the same, the learned XVIII Additional Judge, City Civil Court, Chennai, is directed to consider the application filed by the petitioner in O.S.No. 4130 of 2022 afresh, taking into consideration of the decision rendered by the Hon'ble Supreme Court, and pass appropriate orders, on merits and in accordance with law.

7. The Civil Revision Petition is disposed of, with the above observation and direction. No costs.

15.09.2023

Index : Yes/No

Speaking order : Yes/No

Neutral Citation : Yes/No

MSM

Note: Registry is directed to return the original Petition filed by the petitioner before the Court below substituting the same by a Photostat copy, to the learned counsel for the petitioner.

To



CRP.No. 3377 of 2023

XVIII Additional City Civil Court, Chennai.

WEB COPY



WEB COPY



CRP.No. 3377 of 2023

V.BHAVANI SUBBAROYAN, J.

MSM

CRP.No. 3377 of 2023

15.09.2023