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C.R.P(MD)No.1738 of 2



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.07.2023

CORAM

**THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN
THILAKAVADI**

C.R.P(MD)No.1738 of 2023

Sivagami

... Petitioner/Plaintiff

Vs.

Sami Kumar

...Respondent/Defendant

Civil Revision Petition is filed under Article 227 of the Constitution of India, to direct the Subordinate Judge, Tuticorin, Tuticorin District, to take the plaint in O.S(SR)No.5243 of 2022 on file, which was returned on 03.08.2022.

For Petitioners

:Mr.Ka.Ramakrishnan

ORDER

The Civil Revision Petition is preferred as against the returned order passed in O.S.(SR)No.5243 of 2022 by the Subordinate Judge, Tuticorin, Tuticorin District.



2. According to the revision petitioner, she is the sixth defendant in the suit in O.S.No.32 of 2011 on the file of the I Additional District Judge, Tuticorin, for compensation for the death of her daughter viz., Sivaranjani, due to electrocution. The said suit was decreed by awarding compensation of Rs.2 lakhs, out of which, the petitioner is entitled for one lakhs and for the remaining part of amount in the decree, the Court kept silent. Hence, the petitioner was constrained to file the present suit for declaration to declare the remaining portion of the amount in the decree passed in O.S.No.32 of 2011.

3. However, the trial Court returned the plaint by stating that the petitioner/plaintiff ought to have redressed her grievance only by way of filing an appeal before the appropriate forum.

4. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

5. On perusal of the judgment and decree passed in O.S.No.32 of 2011, it is seen that the same was silent with regard to the share of the present revision petitioner/plaintiff for the remaining portion of the amount. Therefore, the only remedy left open to the the revision petitioner/plaintiff is



to file a suit for declaration of share in the compensation amount.

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6.Considering the above fact, this Court directs the Subordinate Judge, Tuticorin, to number the suit in O.S.(SR)No.5243 of 2022, if it is in accordance.

7.With the above direction, this Civil Revision Petition is disposed of.

No costs.

20.07.2023

NCC:Yes/No

Index:Yes/No

Internet:Yes/No

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Note:Registry is directed to return the original documents to the petitioner after substituting the same with Xerox copies.

To

1.The Subordinate Judge,
Tuticorin,
Tuticorin District.

2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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K.GOVINDARAJAN THILAKAVADI, J.

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