



C.R.P.(MD) No.1768 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.08.2023

CORAM

THE HON'BLE **MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI**

**C.R.P.(MD) No.1768 of 2023**

Soundara Raj

... Petitioner

Vs.

1.Hemalatha @ Janagi

2.Damodarakannan

3.Balasubramanian

... Respondents

**Prayer:-** This Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the Sub Court, Sankarankovil to number the suit filed by the petitioner on 22.08.2019 which was returned by the Court on 16.02.2022 and decide the matter on merits.

For Petitioner : Mr.F.X.Eugene

### **ORDER**

This Civil Revision Petition is preferred by the petitioner for a direction to the Sub Court, Sankarankoil to number the suit filed by him which was returned on 16.02.2022.



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2. According to the petitioner, he filed a suit for permanent injunction in respect of the pathway and the same was returned by the Sub Court, Sankarankovil on the ground that another suit in O.S.No.103 of 2018 on the file of the District Munsif cum Judicial Magistrate Court, Sivagiri is pending on the same cause of action.

3. It is submitted that the reason attributed by the Trial Court while returning the plaint is the matter which has to be decided only at the time of trial and the present suit is filed by invoking the preemptive right of the petitioner which is contemplated under the Hindu Succession Act. The petitioner is claiming rights in the pathway in the 3<sup>rd</sup> and 4<sup>th</sup> Schedule of the property. It is submitted that if the pathway rights are encumbered to the third parties, the rights of the petitioner in the pathway would be affected. It is further submitted that the petitioner was therefore constrained to file the suit for permanent injunction in respect of the pathway and therefore the said suit ought to have been numbered by the Trial Court.

4. Considering the facts and circumstances of the case, this Court directs the learned Sub Judge, Sankarankovil to number the suit if the plaint is in order



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and thereafter decide as preliminary issues whether there is any cause of action  
to file the suit.

5. Accordingly, this Civil Revision Petition is disposed of. No cost.

03.08.2023

Index : Yes/No  
Internet : Yes/No  
NCC : Yes/No  
jen

To  
The Sub Court,  
Sankarankovil.



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**K.GOVINDARAJAN THILAKAVADI, J.**

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