



C.R.P.(PD).No.3642 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.09.2024

CORAM

THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.3642 of 2024

E.Selvam

...Petitioner

Vs.

1.M.Rajeshkumar

2.Pallavan Thirunagar Residential
And Welfare Association Reg No.93/1990,
Rep by its Secretary, R.Muthamizhselvan,
S/o.late. P.Rajendran,
Plot No.29, Pallavan Thirunagar,
(Annai Indhira Nagar Extension),
Keezhnallathur – 602 002

...Respondents

Prayer: Petition filed under Article 227 of the Constitution of India against the order dated 19.06.2024, 09.07.2024 and 21.08.2024 in unnumbered I.A.Sr.No.2519 of 2024 in O.S.No.37 of 2015 on the file of the Principal District Munsif, Thiruvallur.



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For Petitioner : Mr. A.Ilayaperumal

ORDER

This petition seeks for a direction to the learned Principal District Munsif, Thiruvallur, to number the application filed in I.A.Sr.No.2519 of 2024 in O.S.No.37 of 2015. I.A.Sr.No.2519 of 2014 has been filed seeking amendment of the plaint.

2. O.S.No.37 of 2015 was originally presented for permanent injunction restraining the defendants from alienating the property to any third party. Even at the time of presentation of the plaint, an application had been filed in I.A.No.633 of 2012 under Order II Rule 2 of the Code of Civil Procedure seeking to reserve the right to file a suit for specific performance. The said relief had been granted by the Court on 10.02.2015. Hence, the petitioner took out an application, alleging change in circumstances, seeking for the said relief by way of amendment of the plaint.



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3. Mr.A.Ilayaperumal, would submit that instead of numbering the application and passing orders on merits, the learned Judge is repeatedly returning the application. Hence, the revision.

4. This Court in *Selvaraj Vs. Koodankulam Nuclear Power Plant India Limited – (2021) 5 MLJ 467* has held that the Court must not raise issues on the merits of the case at the time of numbering. Therefore, the repeated returns made by the learned Principal District Munsif, Thiruvallur, cannot be appreciated.

5. Hence, the learned Trial Judge is directed to number the application in I.A.Sr.No.2519 of 2024, issue notice and receive counter from the defendants and pass orders in the application on merits. The Civil Revision Petition is ordered accordingly. No costs.

09.09.2024

Index : Yes/No
Internet : Yes/No
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Note: *The Registry is directed to return the original of I.A.Sr.No.2519 of 2024, together with return sheets to the learned counsel on record after obtaining usual endorsement.*

To

The Principal District Munsif,
Thiruvallur.



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V.LAKSHMINARAYANAN, J.

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