



C.R.P. (MD) No. 1433 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.07.2024

CORAM

THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P. (MD) No. 1433 of 2024

Nachiyammal

... Petitioner/
Plaintiff

-VS-

Kavitha

... Respondent/
Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the learned Subordinate Judge, Aranthangi to assign the main number for I.A.SR.No. 393 of 2024 in O.S.No.25 of 2022 on the file of the Sub-Court, Aranthangi filed by the petitioner under the provision of 26 rule 13 of Code of Civil Procedure and consequently, direct to expedite.

For Petitioner : Mr.R.Paranjothi



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ORDER

The Civil Revision Petition is filed with an innocuous relief of directing the Trial Court to number the I.A. SR No.393 of 2024 in O.S.No.25 of 2020 and proceed further in accordance with law.

2. On a perusal of the material records of the case, it can be seen that the said application is a final decree application. In O.S.No.25 of 2020, a preliminary decree is passed granting one half share in the suit schedule property to the plaintiff. Therefore, the plaintiff has filed the present interlocutory application. From the papers which are filed along with the typed set of papers, this Court is shocked to see the variety of returns which are made to the said application. Firstly, it is said that since the appeal suit is pending, how the petition is maintainable. Even if the appeal suit is pending, unless an order of stay is granted by the appellate court, the final decree application is maintainable. Normally, the Courts are granting stay only for the passing of final decree alone and directing the Trial Courts to continue with the final decree proceedings pending the appeal/second appeal. Therefore, such a return was totally uncalled for. Similarly, when the Honourable Supreme Court of India taking into consideration the plight of the litigants in where the partition



suits are kept after passing of final decree, it held that the Trial Courts would even proceed *suomotu* with the final decree proceedings in the absence of the petition for final decree, citing the same, one more return is made as to how the application is maintainable. The same again is shocking. The concerned staff may be sent for training as to which of the things which he has to look into at the time of scrutiny. The staff scrutinizing the final decree application should see whether or not there is a preliminary decree in the matter, and whether the provision of law is correctly mentioned in the petition and whether the affidavit is signed and it is adequately stamped or not etc. and the litigants cannot be repeatedly repeatedly harassed. That too, the returns are made in installments one after the other.

3. In view thereof, this Civil Revision Petition is ordered on the following terms:-

- (i) The learner Subordinate Judge, Aranthangi, is requested to number the I.A. SR No.393 of 2024 in O.S.No.25 of 2020 forthwith and issue notice thereon to the respondents and proceed with the matter in accordance with law;
- (ii) A copy of this order is marked to the learned Principal District Judge, Pudukottai, who is requested to look into the issue and call the concerned staff, and instruct them to



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properly scrutinize and make proper returns in the applications that are filed by the litigants. If necessary, at the District level, a training program can be organized for these scrutiny officers. No costs.

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Index : Yes
NCC : No
PKN



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To

- 1.The Subordinate Court, Aranthangi.
2. The Principal District Judge, Pudukottai.
- 3.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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D.BHARATHA CHAKRAVARTHY, J.

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