



C.R.P.No.3029 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :17.07.2025

CORAM:

THE HON'BLE MR. JUSTICE P.B. BALAJI

CRP No.3029 of 2025

M.Kaliappan

... Petitioner

vs

A.Umadevi

.... Respondents

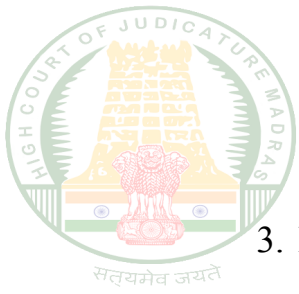
Revision filed under Article 227 of the Constitution of India directing the District Munsif, Tiruppur to take on file and number the plaint in unnumbered OS No... of 2025 (Filing No.92 of 2025).

For Petitioners : Mr.K.S.Karthik Raja

ORDER

Heard the learned counsel for the petitioner.

2. Learned counsel for the petitioner would state that despite compliances made to the returns, stating that the suit is not barred by Section 41(h) of Specific Relief Act, 1963, the learned Judge has repeatedly returned the plaint for the very same reasons.

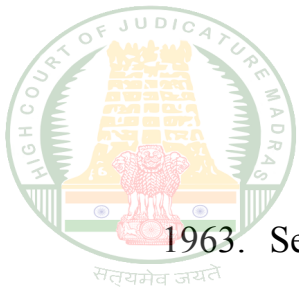


C.R.P.No.3029 of 2025

WEB

3. Learned counsel for the petitioner placed reliance on the decision of this Court in *Selvaraj and Others vs Koodankulam Nuclear Power Plant Indian Ltd in CRP (MD) Nos.915, 943, 967, 991 and 330 of 2020 dated 16.07.2021* reported in *2021 (4) CTC 539*, where, this Court has laid down the procedures for numbering of plaints. This Court has upheld that in respect of permissible defects, the Court shall not return the plaint more than once. This practice has already been deprecated, by this Court in several decisions earlier. The Court should not conduct a mini trial even at the stage of numbering the suit. It is expressly inconsistent with the parameters that has been settled by various decisions of this Court. Following the ratio laid down in *S.Parameswari vs Denis Lourdusamy* reported in *(2011) 5 CTC 742*, this court reiterated that after one return, the Court should post the matter in open Court, invite the arguments of the counsel, on the question of maintainability and thereafter pass a Judicial Order and and it is always open to the aggrieved party to work out their rights in accordance with law, if the objections are upheld.

4. In the present case, admittedly, the above said procedure contemplated has not been followed and the Court has repeatedly returned the plaint only on the ground that the suit is barred in view of Section 41 of Specific Relief Act,



C.R.P.No.3029 of 2025

1963. Section 41(h) of the Specific Relief Act permits a Court to not grant an injunction when an equally efficacious relief can certainly be obtained by any other usual mode of proceeding, except in case of breach of trust. The Court has not even indicated the basis for putting Section 41(h) of the Act against the plaintiff, especially when the plaintiff seeks for mandatory injunction coupled with a permanent injunction. As held by this Court, the trial Court should not conduct a mini trial even before the numbering of the suit. If at all, the Court has any doubt regarding the maintainability of the suit, the matter should be posted for maintainability and the counsel for the plaintiff should be heard on the issues regarding maintainability and thereafter a judicial order needs to be passed by the Court, depending upon the arguments advanced by the learned counsel for the plaintiff.

5. In view of the fact that admittedly, the procedure has not been followed, I am inclined to direct the revision petitioner to represent the original plaint within a period of one week from the date of receipt of a copy of this order and thereafter, subject to the satisfaction regarding compliances made for the latest return, if the trial Court still has any doubts regarding the maintainability of the suit, then, the matter shall be posted in open court and the counsel for the plaintiff shall be heard and thereafter, the trial Court shall pass a



C.R.P.No.3029 of 2025

judicial order regarding numbering of the suit.

WEB COPY

6. Registry is directed to return the original plaint to the learned counsel for the petitioner/plaintiff on production of web copy of this order along with a request letter before the Section Officer, English Records Section, High Court of Madras.

7. With the above direction, the civil revision petition is allowed. No costs.

17.07.2025

Index: Yes/No

Website:yes/no

Speaking Order/Non-speaking Order

sr

To

1. The District Munsif, Tiruppur
2. The Section Officer, English Records Section,
High Court of Madras.



WEB COPY



C.R.P.No.3029 of 2025

P.B.BALAJI.,J.

SI

CRP No.3029 of 2025

17.07.2025