



CRP.No.5030 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2025

CORAM :

THE HONOURABLE MR. JUSTICE P.B. BALAJI

CRP.No.5030 of 2025

and

CMP.No.25404 of 2025

A.Palanisamy

...Petitioner

Vs.

Rangaswamy Gounder (*Died*)

1. Karthika
2. Valliammal
3. Saraswathi
4. Thangamani
5. Lalithamani
6. Prakash
7. Sudarsan

...Respondents

Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 22.09.2025 passed in (Unnumbered) I.A.SR.No.3740 of 2025 in I.A.No.405 of 2018 in O.S.No.1147 of 2013, on the file of the District Munsif of Sular, by allowing this CRP.

For Petitioner : Mr.S.Subbiah, Senior Counsel,
for M/s. Elizabeth Ravi



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ORDER

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

2. The revision petitioner has filed an application under Order 9 Rule 13 of CPC as a third party in I.A.No.405 of 2018 in O.S.No.1147 of 2013 before the learned District Munsif, Sular, seeking to set aside the preliminary decree which came to be passed on 07.11.2002 and the said application came to be dismissed for default on 29.08.2025. In order to set aside the said order and to consequently restore I.A.No.405 of 2018 to file, the revision petitioner filed the instant unnumbered I.A.SR.No.3740 of 2025, under Order 9 Rule 9 of r/w. Section 151 of CPC. However, despite the returns being complied and represented, without even passing a speaking order and without hearing the learned counsel for the petitioner, the Trial court has found that the petition is not maintainable and returned the application on 22.09.2025. Hence, this revision.



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3. Learned Senior counsel appearing on behalf of the petitioner submits that the learned counsel who appeared on behalf of the petitioner before the trial court was not even given an opportunity to explain as to how the application is maintainable.

4. In any event, for mere wrong quoting of provision of law, the trial court ought not to have held that the application itself is not maintainable. Further, this Court in the case of *Selvaraj and others vs. Koodankulam Nuclear Power Plant Indian Ltd* reported in *2021 SCC Online Mad 2514*, has laid down guidelines for the trial court to follow, insofar as the numbering of suits and applications are concerned and this Court has specifically held that the trial court cannot conduct roving enquiry at the stage of numbering the application or suit and if at all the court apprehends that the application is not maintainable, then it will be incumbent upon the trial Court to decide the matter in open court after hearing the learned counsel for the applicant before passing further orders.

5. This Court has repeatedly held that at the time of numbering an



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application or even a suit, this Court only performs a ministerial function and not any judicial function and therefore, it is not open to the trial court to reject an application as not maintainable at the threshold, even without numbering the said application.

6. In the light of the above, the order dated 22.09.2025 passed in (Unnumbered) I.A.SR.No.3740 of 2025 in I.A.No.405 of 2018 in O.S.No.1147 of 2013 on the file of the District Munsif of Suler, is set aside and the trial court shall entertain the said application in I.A.SR.No.3740 of 2025, if it is otherwise in order and dispose of the same on merits and in accordance with law, as expeditiously as possible, after hearing the learned counsel for the contesting parties therein.

7. With the above observations and directions, this Civil revision petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

8. Registry is directed to return the original application to the



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learned counsel for the petitioner within a period of one week from the date of receipt of a copy of this order, after obtaining necessary acknowledgement, enabling him to represent the same before the trial court.

16.10.2025

skt

Index : Yes / No
Speaking order : Yes / No
NCC : Yes / No

To

The District Munsif Court,
Sulur.

P.B. BALAJI, J.

skt



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