



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2017

CORAM :

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THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRP(PD) (MD)No.1165 of 2017

K.S.Sekar

... Petitioner

vs.

Shri Santhana Gopalakrishna Samy
Pajanai Madam,
Kaveri Street, (now 20th Street
Kumbakonam,
By its Secretary,
V.Krishnasamy

... Respondent

Petition filed under Article 227 of the Constitution of India, against the return of the plaint dated 05.06.2017 made in O.S.SR.No.4085 of 2017 on the file of the Principal District Munsif Court, Kumbakonam.

For Petitioner : Mr.K.Mahendran

ORDER

This revision petition is directed against the return of plaint on the ground that the suit is not maintainable in view of the bar under Order 21 Rule 101 CPC.

2.The learned counsel for the revision petitioner submitted that earlier rent control proceedings initiated by the defendant against one Jothiraman culminated in delivery of property on 04.06.2004. The obstructor petition and claim petition filed in the said RCOP.No.27/1992 were all dismissed and the revision petitioner is not claiming any right as a sub-tenant under Jothiraman in the present plaint, but claims right as a person put in possession in view of lease agreement dated 02.09.2004. Therefore, the present suit is maintainable and there is no bar under Order 21 Rule 101 CPC.

3.In support of his submission, the revision petitioner has referred to the criminal complaint filed against him alleging trespass into the suit property. According to the revision petitioner, though he has re-presented the plaint indicating all the above facts and referring to the averments made in the plaint, the Court below has returned the plaint recording that previous return still holds good.



4. Perusal of the unnumbered plaint and cause of action disclosed in the plaint indicate that the plaintiff claims possession of the suit property based on alleged lease deed dated 02.09.2004 executed pursuant to the resolution passed by the defendant Madam. The list of documents enclosed along with the plaint under Order 7 Rule 14 and Section 151 CPC does not contain either copy of the resolution or the alleged lease deed executed by the defendant on 02.09.2004.

5. Therefore, I do not see any reason to interfere with the order passed by the Trial Court in returning the plaint. If the revision petitioner herein re-presents the plaint along with the documents such as lease agreement and the resolution copy of the defendant Madam, the Court below may take the plaint on file if it is otherwise in order. Since the Trial Court has returned the plaint on 05.06.2017 granting two weeks time for re-presentation which is already expired, time for re-presentation is extended upto 30.07.2017. The revision petitioner is at liberty to take back the plaint and re-present it before the Trial Court with necessary details and documents.

In the result, the Civil Revision Petition is dismissed with the observation. No costs.

(**) This petition having been posted on this day 'FOR BEING MENTIONED' in pursuance to the order of this Court dated 30.06.2017 and made herein in the presence of the above said Advocate, this Court made the following order:-

The counsel for the petitioner submitted that the observation made by this Court in paragraph 5 of the order dated 21.06.2017 passed in this revision petition regarding the re-presentation of plaint along with documents such as, lease agreement and resolution copy of the defendant Madam will prejudice the case of the revision petitioner, since he has already explicitly submitted in the plaint that he is not in possession of the lease agreement and the resolution copy of the defendant Madam. Except these two documents, counsel for the revision petitioner submits that the revision petitioner has other documents to prima facie satisfy the Trial Court that he is in possession of the suit property since September 2004.

In view of the above submission, if the above said two documents are not available with the revision petitioner/plaintiff, he has to re-present the plaint with

<https://hcservices.ecourts.gov.in/hcservices/>



other documents which have relevancy to the cause of action pleaded in the plaint and on such re-presentation, the Court below may take the plaint on file if it is otherwise in order.

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In the result, the Revision Petition is disposed as above. No costs

Sd/-
Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar

To

The Principal District Munsif,
Kumbakonam.

Copy To :-

The Section Officer,
E.R. (Civil) Section,
Madurai Bench of Madras High Court,
Madurai.

(to return the original plaint to the counsel
for petitioner after getting attesting copies
of the same).

+ 1 CC TO Mr.K.MAHENDRAN, ADVOCATE IN SR No. 61816

NBI
TE/SV/SAR-II : 12/07/2017 : 3P/4C

CRP (PD) (MD) No.1165 of 2017
21.06.2017