



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2017

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRP (PD) (MD) No.1892 of 2017

Nageretnam

... Petitioner

vs.

P.Ayyamperumal

... Respondent

Petition filed under Article 227 of the Constitution of India, against the order dated 05.07.217 in unnumbered plaint in OSSR.No.106/2017 on the file of the Sub Court, Kanyakumari at Nagercoil and for numbering the same.

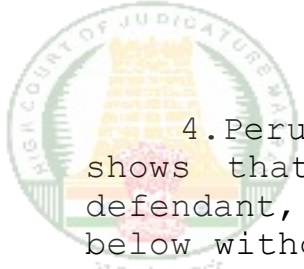
For Petitioner : Mr.M.Venkatesan

ORDER

This revision petition has been filed against the order dated 05.07.217 in unnumbered plaint in OSSR.No.106/2017 on the file of the Sub Court, Kanyakumari at Nagercoil and for numbering the same.

2.The defendant/respondent has purchased the plaintiff's land comprised in Resurvey No.C-17/56 of Vadasery Village, Agasteeswaram Taluk, Kanyakumari District. At the time of purchase, the defendant did not pay the entire amount and both the plaintiff and defendant accepted the sale. The defendant had given a receipt to the plaintiff on 30.01.2012 and the defendant agreed to repay the balance amount of Rs.2,00,000/- within three months and the defendant did not pay the balance amount as stated. Therefore, the plaintiff has made several demands to the defendant and had finally issued a legal notice dated 04.09.2014 and there was no reply from the defendant to the said legal notice and as there was no reply from the defendant, he filed the above suit stating that the respondent did not pay the entire amount and to show that he did not receive the entire amount. The receipt as well as the legal notice with acknowledgment are enclosed with the plaint.

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



4.Perusal of the typed set filed along with this revision shows that the petitioner has filed the receipt given by the defendant, legal notice and acknowledgment thereof, but the Court below without appreciating the contents of the plaint has returned the plaint. Therefore, this Court is of the view that the revision petitioner has made out a prima facie case to allow this revision.

5.Hence, the impugned order dated 05.07.217 made in unnumbered plaint in OSSR.No.106/2017 on the file of the Sub Court, Kanyakumari at Nagercoil, is set aside and the learned Sub Judge, Kanyakumari at Nagercoil, is directed to number the plaint immediately and proceed with the case in accordance with law.

With the above direction, this Civil Revision Petition is allowed. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

The Subordinate Judge,
Kanyakumari at Nagercoil.

Copy to:

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

+1CC to Mr.M.Ventakesh, Advocate, SR.No. 92700

CRP(PD) (MD) No.1892 of 2017
12.12.2017

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AM/GT/SAR 1/08.01.2018/2P/4C