



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 24.04.2018

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

CRP (MD) .No.2729 of 2015
and M.P. (MD) No.1 of 2015

Venkatraman .. Petitioner/Petitioner/2nd Defendant

Vs.

1.Sankar

2.Sekar

3.Manikandan

..Respondents 1 and 2/Respondents/Plaintiff

... 3rd Respondent/Respondent/1st Defendant

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the order dated 21.08.2015 made in I.A.No.636 of 2013 in O.S.No.167 of 2011 on the file of the District Munsif Court, Pattukkottai.

For Petitioner : Mr.AN.Ramanathan

For R1 & R2 : Mr.M.Suri

For R3 : No appearance

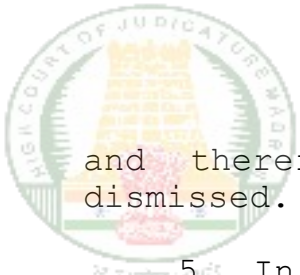
O R D E R

This Civil Revision Petition has been filed to set aside the order dated 21.08.2015 made in I.A.No.636 of 2013 in O.S.No.167 of 2011 on the file of the District Munsif Court, Pattukkottai.

2. The petitioner, who is the second defendant in the suit, has filed an application under Order 7 Rule 1 and Section 151 of C.P.C in I.A.No.636 of 2013 for rejecting the plaint. The only ground raised by the petitioner is that before filing the suit for recovery of possession, notice under Section 106 of Transfer of Property Act ought to have been issued to the petitioner, but, notice was not issued and therefore, prayed for rejection of plaint. The said application was dismissed by the court below. Against which, the petitioner is before this Court.

3. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents 1 and 2.

4. Issuance of notice under Section 106 of the said Act should be considered only after framing issues and the trial court should decide the same. Only for non-issuance of notice under Section 106 of Transfer of Property Act, the plaint should not be rejected. The petitioner has not raised any other ground for rejecting the plaint



and therefore, the Civil Revision Petition is liable to be dismissed.

5. In the result, the Civil Revision Petition is dismissed confirming the order passed in I.A.No.636 of 2013 in O.S.No.167 of 2011 on the file of the District Munsif, Pattukkottai. No costs. Consequently, connected miscellaneous petition is also dismissed. However, the trial court is directed to dispose of the suit by framing issues in respect of non-issuance of notice under Section 106 of Transfer of Property Act and decide the same on merits and in accordance with law. The petitioner is at liberty to raise the said ground before the court below. The suit in O.S.No.167 of 2011 shall be disposed of within a period of three months from the date of receipt of copy of this order.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

The District Munsif,
Pattukottai.

+1CC to Mr.C.Padmaraj Advocate in SR.No.63403.

CM
DS/SKN-RSK/SAR-3 :25.06.2018: 2P/3C

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