



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.07.2019
(Reserved on 28.06.2019)

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRP(PD) (MD)No.79 of 2019

Selvaraj Velanganni ... Petitioner/Plaintiff

vs.

Marakathamani ... Respondent/Defendant

Petition filed under Article 227 of the Constitution of India, against unnumbered O.S.No.____ of 2018 (SR.No.2828 of 2018) on the file of the District Munsif Court, Dindigul.

For Petitioner : Mr.K.Kulanthai Vikram for
Mr.C.Mayilvahana Rajendran

ORDER

The plaintiff is the revision petitioner.

2.This revision petition has been filed as against the unnumbered Original Suit of the year 2008 with SR.No.2828 of 2018 on the file of the District Munsif, Dindigul.

3.It is the claim of the plaintiff that he purchased the property from the respondent/defendant through a registered a sale deed by paying the entire sale consideration. The defendant was put in permissive occupation from 19.04.2017 for a period of one year and after the completion of the period, the defendant failed to hand over the possession and therefore, the plaintiff was constrained to file the suit for possession.

4.Registry returned the plaint asking the plaintiff to pay the court fee under Section 30 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955.

5.The plea of the learned counsel for the plaintiff/revision petitioner is that

a)the status of the defendant after the expiry of the licence can be taken to be that of a trespasser; or

b)the status of the defendant can be construed to be that of a permissive occupier for a period of one year and thereafter as that of a trespasser; or

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

c)the status of the defendant after the expiry of one year period can be construed to be that of a tenant at the rate of rent



which is paid by the tenant in the ground floor and that in any event, the court fee payable would not be covered under Section 40 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955.

6. From the details of returns in the plaint made by the Court and the compliance endorsement made by the counsel, it appears that the revision petitioner has approached this Court hurriedly without obtaining a final order from the trial Court with regard to taking up of the case on file.

6.1. The learned counsel appearing before the trial Court should have brought the matter for arguments in the open Court and should have obtained a final order for numbering of the plaint, either acceptance or rejection.

7. In the circumstances, this Court holds that the revision petition is not maintainable at this stage and the trial Court is directed to hear the counsel for the petitioner/plaintiff with regard to payment of court fee and to take a decision in accordance with law.

8. With the above observation, this revision petition is disposed of. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

The District Munsif, Dindigul.

+1 CC to M/s.C.MAYIL VAHANA RAJENDRAN, Advocate (SR-78442[F]
dated 30/07/2019)

Copy to:

The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

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30.07.2019

AM (07.08.2019) 2P : 5C