



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

C.R.P(MD)No.1895 of 2019

A. Raja Mohamed

... Petitioner / plaintiff

Vs.

M. Kaja Mohammed

.. Respondent / defendant

PRAYER: This Civil Revision Petition is filed under Article 227 of Constitution of India seeking direction to the Sub Court, Periyakulam, to number the O.S.No.(unnumbered) of 2019, (filing No.O.S.342/2019, CNR.No.TNTHOA0003042019) on the file of Sub Court, Periyakulam and decide the same on merits.

For Petitioner

: Mr.V. George Raja

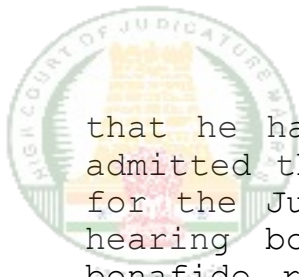
ORDER

This Civil Revision Petition has been filed against the return endorsement made in O.S.No.(unnumbered) of 2019, (filing No.O.S.342/2019, CNR.No.TNTHOA0003042019), on the file of Sub Court, Periyakulam.

2. According to the revision petitioner, the plaint was filed for recovery of money based on the cheque. He further submitted that when he presented the suit, the same was returned for the following reasons:

- "1. Advocate signature not obtained in the plaint Vakalat and Batta Memo.
2. Document copy not enclosed in the Duplicate plaint.
3. Court fee stamp not affixed in vakalath and batta memo.
4. Postal cover and postal stamp not enclosed in Batta memo.
5. Original Document not enclosed in the plaint."

The return order was complied within a period of two days. However, the same was returned once again for production of original cheque. He submitted that original cheque was filed before the Court, where the revision petitioner has lodged a complaint under Section 138 of Negotiable Instruments Act, before the learned Judicial Magistrate, Periyakulam in S.T.C.No. 6550 of 2016. Therefore, he filed photocopy of the document. It is also stated



that he has sent a legal notice and in the reply, the respondent admitted the issuance of cheque. Therefore, he contended that it is for the Judicial Officer concerned to decide the suit claim after hearing both parties. He has also contended that there is no bonafide reasons for rejecting the plaint and hence, he preferred the Civil Revision Petition seeking direction to the Court below to number the suit.

3. I have heard the learned counsel appearing for the revision petitioner and perused the materials available on record.

4. The present suit sought to be filed for the purpose of recovery of money fixing liability on the defendant. When the revision petitioner / plaintiff deposited the cheque, the same was returned as in-sufficient fund. Thereafter, the plaintiff lodged a complaint under Section 138 of Negotiable Instruments Act, and the same is pending before the learned Judicial Magistrate, Periyakulam in S.T.C.No. 6550 of 2016. Further, on perusal of the legal notice and the reply sent by the defendant, it appears that there is an admission on liability. Such being the case, it is not appropriate on the part of the Court below to return the plaint.

5. Therefore, this Court directs the Court below to number the suit if it is otherwise in order.

6. This Civil Revision petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

trp
To

The Sub Judge, Periyakulam.

Copy to

The Section Officer,
ER Section,
Madurai Bench of Madras High Court,
Madurai.

C.R.P (MD)No.1895 of 2019
23.10.2019