

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP.No.1054/2021
[Video Conferencing]

K.Rajagopal .. Petitioner
Vs
R.Suman .. Respondent

Prayer:- This Civil Revision Petition filed under Article 227 of the Constitution of India, to allow the Civil Revision Petition and to direct to take on the OS filing number OS/168/2020 on the file of the Subordinate Judge, Omalur which was returned on 28.09.2020.

For Petitioner : Mr.S.P.Yuvaraj

ORDER

1. This Revision is against the order of the learned Subordinate Judge, Omalur, in returning the plaint to the petitioner/plaintiff, in a suit for recovery of money based on a cheque. Considering the scope of the Revision, notice to the respondent is deemed unnecessary.
2. The plaintiff sued the defendant for recovery of money based on a cheque dated 15.01.2020.
3. The cheque was returned on the ground that it has to be presented before the proper Zone. Without presenting the cheque in the proper Zone, the plaintiff had chosen to file a suit for recovery of money based on the cheque. The learned Subordinate Judge, Omalur, has returned the plaint on 28.09.2020 on the ground that the suit is not maintainable since the cheque was not presented in the proper Zone. By the time the plaint was returned on 28.09.2020, the cheque itself has become a stale cheque and it cannot be presented once again.
4. The reason of the learned Subordinate Judge, Omalur, that the plaintiff cannot institute a suit without presenting the cheque before the proper Zone, is clearly wrong. A cheque is a Negotiable Instrument. A holder of a cheque gets cause of action to sue upon the cheque once the cheque is issued and the fact whether the cheque is presented for payment to the Bank or not, does not really matter. A cheque should ordinarily be presented for payment to the Bank within three months of its execution;

but a suit based on a cheque can be filed within three years of its execution. Therefore, I do not think that the learned Trial Judge was right in returning the plaint on the ground that the suit cannot be maintained without representing the cheque before the proper Zone.

5. Hence, the Civil Revision Petition is allowed and the order of the learned Subordinate Judge, Omalur, dated 28.09.2020 is set aside. The plaintiff is permitted to represent the plaint before the learned Subordinate Judge, Omalur, and upon the said representation, the learned Subordinate Judge, Omalur, is directed to number the suit and proceed with the same in accordance with law, without being, in any manner, influenced by any of the observations made herein upon. The learned counsel shall represent the plaint within a period of six weeks from today. No costs.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

AP

To

The Subordinate Judge,
Omalur.

CRP.No.1054/2021

PP (CO)
GN(16/06/2021)

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