

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(P.D).No.3555 of 2018
and C.M.P.No.19936 of 2018

Thilip Kumar ... Petitioner

Vs

Yogash Jain ... Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 07.06.2018 made in unnumbered O.S.SR.No.4264 of 2018 on the file of the Principal Sub Court, Puducherry.

For Petitioner : Mr.D.Senthil Kumar

For Respondent : Mr.P.Suresh Babu

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 07.06.2018 made in unnumbered O.S.SR.No.4264 of 2018 on the file of the Principal Sub Court, Puducherry, thereby returned the plaint for the reason that the Trial Court had no territorial

jurisdiction.

2. The petitioner is the plaintiff and the respondent is the defendant. The petitioner filed a suit for recovery of money. The case of the petitioner is that the defendant owned property at Puducherry within the jurisdiction of the Trial Court. The defendant offered to sell the property and the petitioner, after verifying the documents and title deeds obtained from the Bahour Sub Registrar Office, started initiating with the defendant for purchasing the suit property. Thereby he agreed to purchase the suit property for a total sale consideration of 1,04,00,000/- and also paid a sum of Rs.5,00,000/- as advance. Thereafter, the defendant evaded to perform his part of the contract and as such, the petitioner caused notice on 16.02.2018 to the address furnished by the defendant. It was returned as 'Unserved'. Hence, the petitioner filed a suit for recovery of money within the jurisdiction of the Court below. The Court below initially returned the plaint for want of territorial jurisdiction since the defendant is residing in Mumbai. Thereafter, it was re-presented with explanation. Without being satisfied with the

explanation, the Trial Court returned the plaint for the reason that pre-suit notice sent to the residential address as mentioned in the title deed's was returned as 'Left'. Therefore, the Trial Court has no jurisdiction to entertain the plaint and returned.

3. The learned counsel for the petitioner would submit that under Section 20(c) of Civil Procedure Code, the petitioner can very well maintain the suit before the Court below, since, part of the cause of action arose within the territorial jurisdiction of the Trial Court. In fact, the present Civil Revision Petition filed with the address mentioned by the respondent herein and the same address he was served notice and the counsel appeared on behalf of him. Therefore, the Trial Court ought not to have gone into the merits of the claim in the suit, since part of the cause of action arose within the territorial jurisdiction of the Trial Court

4. In view of the above, the order dated 07.06.2018 made in unnumbered O.S.SR.No.4264 of 2018 on the file of the Principal Sub Court, Puducherry, is hereby set aside. Registry is directed to return the

original documents to the counsel for the petitioner forthwith. On receipt of the same, the petitioner shall re-present the plaint before the Court below within a period of two weeks.

5. With the above direction, the Civil Revision Petition is allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

To

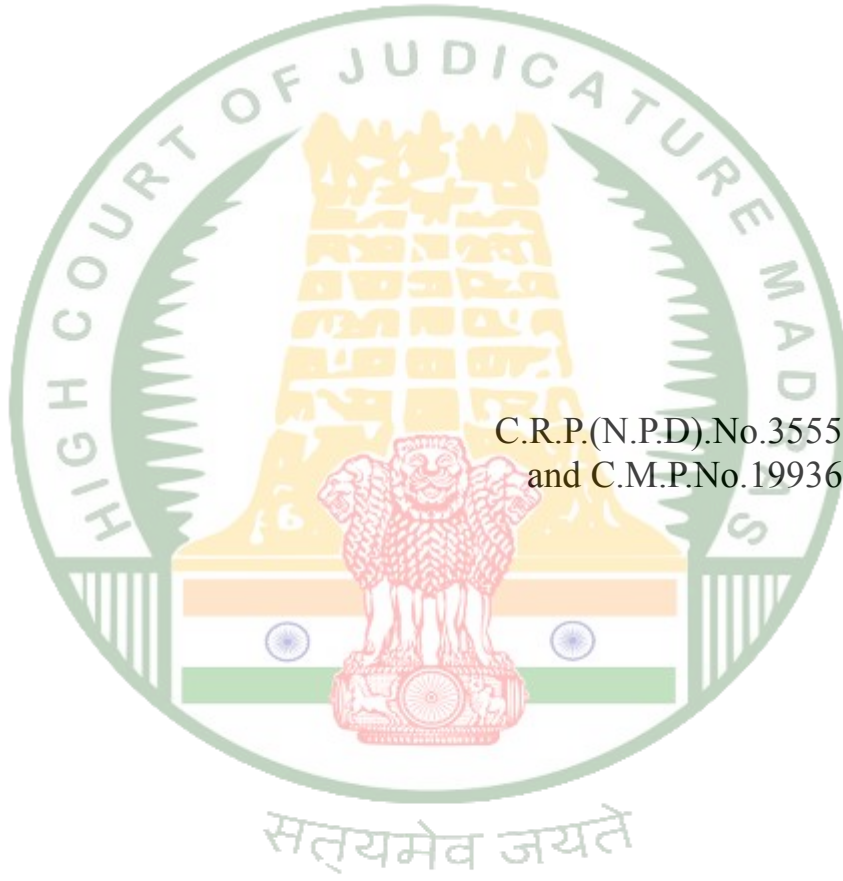
The Principal Subordinate Judge,
Puducherry.

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G.K.ILANTHIRAIYAN,J.

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