



C.R.P (NPD) No.1577 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2022

CORAM: **JUSTICE N.SESHASAYEE**

C.R.P (NPD) No.1577 of 2022

J.Jayashankar

... Petitioner

Vs.

B.Prakash

... Respondent

PRAYER: The Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the docket order dated 18.03.2022 in unnumbered O.S.CNR No.TNK10D0000242022 of 2022 passed by the learned District Munsif Court, Denkanikottai and to receive the returned plaint and number the same and issue summon to the respondent in accordance with law.

For Petitioner : Mr.R.Bharathkumar



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ORDER

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The revision petitioner herein presented a plaint wherein, he has sought a prayer for bare injunction, that his possession should not be disturbed. This was returned by the learned trial Judge on the ground that the plaintiff claims possession under a sale receipt and in terms of Section 17(1) (a) of the Registration Act, and it requires registration and therefore, the plaintiff cannot sustain the suit.

2. The learned counsel for the revision petitioner submitted that the learned trial Judge has not considered that there are two prayers to the plaintiff's case, one is the actual physical possession and other is its legitimacy. The legitimacy of possession need to be considered only after the defendant enters appearance but, the learned trial Judge has considered that issue one stage too early. He also submitted that in ***Selvaraj and Others. vs. Koodankulam Nuclear Power Plant India Limited*** [2021-3-L.W.-677], this court has observed that while scrutinising the plaint, neither the trial court nor the Registry should wear the cap of the defendant.



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3. This court finds merit in the submission of the revision petitioner.

Accordingly, this revision petition is allowed. The docket order dated 18.03.2022 in unnumbered O.S.CNR No.TNK10D0000242022 of 2022, is set aside. The trial court is now required to hear the revision petitioner on the plea of holding possession and the legitimacy of such possession in the context of ratio in ***Selvaraj and Others. vs. Koodankulam Nuclear Power Plant India Limited*** [2021-3-L.W.-677], and decide the issue accordingly. No costs. Registry is required to return the original plaint to the revision petitioner.

29.04.2022

Asr

To
The District Munsif, Denkanikottai



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N.SESHASAYEE, J.,

Asr

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