

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.07.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)No.2359 of 2015 &
M.P.No.1 of 2015

V.Santhi

... Petitioner

v.

Muniammal

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 20.01.2015 made in I.A.No.254/2014 in O.S.No.159 of 2008 on the file of District Munsif Court, Sholinghur.

For Petitioner : Mr.A.Gouthaman

ORDER

Challenging the fair and final order passed in I.A.No.254 of 2014 in O.S.No.159 of 2008 on the file of District Munsif Court, Sholinghur, the 2nd defendant has filed the above Civil Revision Petition.

2. In the year 2008, the plaintiff filed the suit in O.S.No.159 of 2008 for specific performance and for recovery of possession. The 2nd defendant filed her written statement on 24.08.2009. Thereafter, in the year 2014, the 2nd defendant filed an application in I.A.No.254 of 2014 under Order VII, Rule 11 of CPC to reject the plaint stating that the plaintiff has taken a contrary stand in the plaint. The application filed by the 2nd defendant was opposed by the plaintiff.

3. The Trial Court, after taking into consideration the case of both the parties, dismissed the application finding that the issue involved in the application can be decided only after the completion of the trial.

4. Mr.A.Gouthaman, learned counsel appearing for the petitioner submitted that the plaintiff had averred that she is in possession of the property. However, in the suit, she sought for recovery of possession, which

are mutually inconsistent. Further, the learned counsel submitted that since the plaintiff had contended that she is in possession and enjoyment of the suit property under section 53 of the Transfer of Property Act, the sale agreement has to be registered. The learned counsel also submitted that the suit is ripe for trial.

5. When the suit is pending for more than 7 years, now, the application filed by the 2nd defendant to reject the plaint cannot be allowed at this stage. When the written statement was filed in the year 2009 itself, the present application under Order VII, Rule 11 of CPC has been filed by the 2nd defendant only in the year 2014. That apart, the issues involved in the present application can be decided only after the completion of the trial of the suit. Taking into consideration all these aspects, the Trial Court has rightly dismissed the application.

6. In these circumstances I do not find any error or irregularity in the order passed by the Trial Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. It is needless to say that the Trial Court shall decide all the issues raised by the defendants at the time of disposal of the suit. Since the suit is pending from 2008, I direct the District Munsif Court, Sholinghur to dispose of the suit in O.S. No.159 of 2008 on

merits and in accordance with law, within a period of four months from the date of receipt of a copy of this order.

With these observations, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : No
Internet : Yes

14.07.2015

Rj

To

The District Munsif Court,
Sholinghur

M. DURAISWAMY,J.,

Rj

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