

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.08.2015

CORAM

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

C.R.P.(PD)No.2780 of 2015 &
M.P.No.1 of 2015

1.Deivasigamani
2.Kathirvel
3.Kengammal ... Petitioners

v.

M.Vengadesh ... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 06.03.2015 made in I.A.No.45 of 2015 in O.S.No.7 of 2013 on the file of Subordinate Judge, Perundurai.

For Petitioner : Mr.C.Munusamy

O R D E R

The petitioners are the defendants in O.S.No.7 of 2013 on the file of Subordinate Court, Perundurai. The respondent herein filed the suit in O.S.No.7 of 2013 seeking specific performance or in the alternative to pay the sum that was received by the petitioners herein with interest.

2. While so, the petitioners filed an application in I.A.No.45 of 2015 seeking to send for the documents executed by one P.S.Muthusamy and others from 1.1.1980 from the file of the Sub Registrar Office, Thingalore, Perundurai Taluk. The plaintiff filed his counter and contested the application.

3. The learned Subordinate Judge, Perundurai, dismissed the application on 06.03.2015.

4. The Civil Revision Petition is against the aforesaid order.

5. I have heard the learned counsel for the petitioner and perused the order. The learned Subordinate Judge, Perundurai, in Paragraph No.7 of the order held as follows:-

"7. The suit is for specific performance of sale said to be executed on 5.1.2007 by the present petitioners in favour of one Vengadesh, who is the respondent herein. The petitioners

denied the execution of the agreement of the sale deed. The petitioners have stated that they did not know the respondent and he is a stranger. They have also pleaded that the plaintiff's paternal uncle Muthusamy has created the fraudulent agreement based on the written statement and the reply statement. This court has framed as many as 7 issues. None of the 7 issues were framed whether the Muthusamy and the respondent Vengadesh are doing the same business. Moreover, in the suit, it is to be decided whether the suit agreement of sale is true or not? This court will decide whether the plaintiff is entitled to the discretionary relief of specific performance. The defendant has to prove that the agreement of sale is fraudulent one. For proving the agreement of sale is a fraudulent document, the documents executed by the 10 persons from 1.1.1980 till date is nothing to do with. Hence, the documents sought for to be send for is no way related to the suit transaction and it will not help the court to decide the issues effectively. Without mentioning the date, particulars of the document, the petitioners cannot send for all the documents said to have executed by the 10 persons from 1.1.1980 for about 35 years which will be voluminous in nature. There is no merit in the petition."

6. The learned Subordinate Judge has also categorically held that without mentioning the date and the relevant particulars of the documents, the petitioners cannot send for all the documents said to have executed from 1.1.1980 for about 35 years.

7. In these circumstances, I do not find any infirmity in the order passed by the Subordinate Court, Perundurai. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : No
Internet : Yes

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Rj

To

The Subordinate Court,
Perundurai.

D.HARIPARANTHAMAN,J.,

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