

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.11.2016

CORAM

THE HON'BLE MR. JUSTICE T.MATHIVANAN

C.R.P (PD) Nos.1255 and 1256 of 2010

&

M.P.No.1 of 2010

Mrs.Krishnaveni (died)

1.Mrs.Thangam

2.Mrs.Vijaya

Mrs.Radha (died)

3.Mrs.Navaneetham

N.Krishnamoorthy (died)

4.N.Dhandapani

5.Mrs.Shanmugavadivu

6.Subramaniam

7.Mrs.Chitra Devi

8.Mrs.Uma

... Petitioners
in both the petitions

Vs.

1.S.Meenakishi

2.J.Amsaveni

3.S.B.Vasanth

4.S.Manoharan

5.S.Mahalingam

6.Mrs.V.Prabha

7.N.Sountharam

8.Shyam

9.Mrs.Kaliammal @ Kalamani

... Respondents
in both the petitions

Civil Revision Petitions filed under Article 227 of the Constitution of India against the fair and decretal order dated 08.01.2010 and made in I.A.No.595 of 2009 and I.A.No.596 of 2009 in O.S.No.971 of 2004 on the file of Additional District Judge, Fast Track Court No.I, Coimbatore.

For Petitioner : Mr.G.Arul Murugan

For Respondents : No Appearance

COMMON ORDER

The common fair and decretal order dated 08.01.2010 and made in the application in I.A.Nos.595 and 596 of 2009 in the suit in O.S.No.971 of 2004 on the file of the Additional District Judge, Fast Track Court No.I, Coimbatore are under challenge in these revisions. The revision petitioners are the defendants in the suit whereas the respondents 1 to 6 are the plaintiffs. Respondents 7 to 9 are the remaining defendants in the suit.

2. It is manifested from the records that originally one R.Shanmugam had filed the suit in O.S.No.1013 of 1994 on the file of the learned Subordinate Judge, Coimbatore seeking the relief of specific performance of contract for sale dated 15.04.1980 as against the revision petitioners. The said suit was transferred to the file of Additional District Judge (Fast Track Court No.I, Coimbatore and renumbered as O.S.No.971 of 2004. The suit was contested by the revision petitioners / defendants by filing their written statements as well as additional written statements. During the pendency of

the suit, the original plaintiff Shanmugam had passed away. Thereafter his legal representatives were impleaded as plaintiffs 1 to 6. The trial was commenced and PW1 was examined in chief and some documents were marked as Exs.P1 to P17 on his behalf. Under this circumstance, two applications were taken out by the plaintiffs in I.A.No.595 of 2009 and 596 of 2009 seeking permission to file the documents narrated underneath the petition. Those petitions were contested by the revision petitioners/defendants. However, the learned trial Judge had proceeded to allow the above said applications and ordered to receive the documents, which were sought to be received. Having been aggrieved by the impugned order dated 08.01.2010, the present revisions are filed by the revision petitioners/defendants.

3. The case of the plaintiffs is that one Natarajan, who is the father of the defendants was owning a theatre in the name and style of "Soundaram Theatre". Since he was heavily burdened with debts, he wanted to sell the theatre. Accordingly he entered into an agreement of sale with the plaintiffs on 15.04.1980 after fixing the sale price of the theatre at Rs.6 Lakhs. A period of three years was fixed for the completion of the contract and since the contract was not able to be fulfilled within the stipulated period of three years, several demands were made and since the defendants had not come forward to execute the sale deed in favour of the respondents, the original plaintiff Shanmugam was constrained to file the above suit.

4. Despite service of notice on the respondents, they have not chosen to appear either in person or through their respective counsel. Heard Mr.G.Arul Murugan, learned counsel for the petitioners. This Court has perused the grounds of revisions along with the impugned orders.

5. Having regard to the related facts and circumstances of the case, this Court finds that no prejudice would be caused to the revision petitioners/defendants if the documents which are sought to be produced are ordered to be received. This Court has also perused the averments of the affidavit filed in support of the petition and finds that those documents are relating to the handing over of possession of theatre along with accessories etc., and therefore the impugned order of the trial Court does not suffer with any infirmity or illegality, even if the documents are ordered to be received.

6. Mr.G.Arul Murugan, learned counsel has also indicated that the suit was originally filed in the year 1994 and the suit sale agreement was executed on 15.04.1980 itself. He has also raised an important issue relating to limitation and since the suit was not filed within the period of three years as stipulated under Article 54 of the Limitation Act, the suit was clearly barred by limitation. However, this Court is of the view that this issue could be adjudicated only by the trial Court and not in this Court.

7. In view of the above fact, this Court finds that revision petitions do not have any merit and hence the impugned orders need not be disturbed. Under this circumstance, the revision petitions are dismissed as they are devoid of merits. However, there shall be no order as to cost. The trial Court is directed to dispose of the suit in O.S.No.971 of 2004 within a prescribed period of four months from the date of receipt of a copy of this order without further loss of time as the suit is relating to the year 1994. The revision petitioners are at liberty to confront the documents which are ordered to be received with PW1 during the time of cross-examination. Consequently, connected miscellaneous petition is closed.

02.11.2016

gpa

To

The Additional District Judge
Fast Track Court No.I, Coimbatore

T.MATHIVANAN.J.,

gpa

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