

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2016

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRP(NPD)No.347 of 2011

and

M.P.No.1 of 2011

1.Gomathi

2.Bharathi

3.Selvi

..Petitioners

Vs.

1.Kasilingam

2.Chinnammal

(R-2 was given up as unnecessary party)

..Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and final order dated 30.04.2009 made in I.A.No.451 of 2008 in O.S.No.110 of 2002 on the file of the Additional Subordinate Court, Salem.

For Petitioners : Mr.T.Muruga Manickam

For 1st respondent : Mr.S.Parthasarathy

For 2nd respondent : Given up

ORDER

This Civil Revision Petition arises against the order dated 30.04.2009 passed in I.A.No.451 of 2008 in O.S.No.110 of 2002 by the learned Additional Subordinate Judge, Salem.

2.Mr.T.Muruga Manickam, learned counsel for the petitioners submitted that the respondent herein filed a suit for specific

performance on the alleged agreement of sale dated 14.05.2001 against the revision petitioners in O.S.No.110 of 2002 before the learned I Additional Subordinate Judge, Salem. It is filed for directing the defendants to effect the sale of plaint schedule property to the respondent, alternatively, directing the petitioners to pay the amount of Rs.60,000/- with 3% interest from the date of agreement and costs of the suit. The agreement of sale was to be completed within a period of ten months from the date of agreement i.e., within 13.03.2002 and the balance to be paid at the time of registration of the sale deed. The cause of action arose on 14.05.2001, on which date, the sale agreement was registered between the parties. On 10.03.2002, notice was issued by the respondent to the petitioners. In respect of the suit properties, as against the total sale consideration amount of Rs.1,50,000/-, as per the sale agreement, the respondent herein, paid only a sum of Rs.60,000/- towards advance and the balance amount of Rs.90,000/- was to be paid to the revision petitioners/defendants. In such circumstances, the aforesaid suit was filed for specific performance. In the said suit, the ex parte decree was passed on 16.12.1995 against the defendants/revision petitioners by granting one month time to deposit the balance sale consideration of Rs.90,000/- within a period of one month.

3. Learned counsel for the petitioner would further submit that during the second week of June, 2008, when the respondent came to know about the fact that the petitioners are trying to alienate the schedule property to third party, he gave a petition before the Sub-

Registrar, Vazhapady, Salem District to obstruct the sale and not to register the sale deed and in the result, the sale deed was returned to the third party since the decree is pending. When the first respondent approached the counsel and enquired about the stage of the suit, he returned the bundle, without any proper reason and thus, he engaged a new counsel. Hence, I.A.No.451 of 2008 was filed before the learned Additional Subordinate Judge, Salem, by the plaintiff/respondent to condone the delay of 906 days in depositing the balance sale consideration and permit him to deposit the same into Court within a time stipulation and the same was allowed. Hence, the present Civil Revision Petition was filed by the defendants/ revision petitioners before this court.

4. Mr.S.Parthasarathy, learned counsel for the first respondent submitted that the respondent has no objection in allowing the aforesaid application in view of the allowing the Civil Revision Petition in CRP(NPD)No.348/2011 dated 22.04.2016.

5. Heard Mr.T.Murugamanickam, learned counsel for the petitioners and Mr.S.Parthasarathy, learned counsel for the first respondent and perused the materials available on record.

6. The learned counsel for the first respondent submitted that he has no objection in allowing the Civil Revision Petition in the light of the order passed in CRP(NPD)No.348/2011 dated 22.04.2016.

7. Recording the submission of the learned counsel for the parties, this Civil Revision Petition is allowed. No order as to costs. Consequently, connected miscellaneous petition is closed.

22.04.2016

gv

Index :Yes/No
Internet:Yes/No

To

The Additional Subordinate Court,
Salem.

D.KRISHNAKUMAR,J.

gv

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