

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2016

CORAM:

THE HON 'BLE MR. **JUSTICE K.K.SASIDHARAN**

Civil Revision Petition (PD) No.1479 of 2016
and C.M.P.No.8127 of 2016

P.Siddharth

... Petitioner

Versus

L.R.Jayaraman

... Respondent

Prayer:- Petition filed under Article 227 of the Constitution of India, to strike off the suit in O.S.No.169 of 2015 on the file of the Subordinate Court at Hosur.

For Petitioner : Mr. P.Valliappan
For Respondent : Mr. P.Thamarai Selvan

ORDER

The respondent filed a suit in O.S.No.169 of 2015 against the petitioner for a decree of declaration in respect of his title and for a decree directing cancellation of sale deed dated 12.08.2013, registered as document No.1618 of 2013 before the Sub Registrar, Royakottai.

2. The petitioner on receipt of summons from the trial court filed this petition to strike off the plaint invoking Article 227 of the Constitution of India.

3. The learned counsel for the petitioner contended that even in the list of documents, the respondent captioned it as sale deed. According to the learned counsel, since the sale deed was executed by the respondent and the title deeds of the documents were also handed over to the petitioner, there is no question of filing a suit for the relief as claimed in O.S.No.169 of 2015.

4. I have also heard the learned counsel appearing for the respondent.

5. The respondent filed a suit in O.S.No.169 of 2015 with a clear plea that he was taken to the Office of the Registrar by the petitioner under the pretext that a mortgage deed has to be executed for disbursing the loan amount. It is the contention of the respondent that the petitioner wanted him to execute the mortgage deed to redeem loan. According to the respondent, under the guise of executing a mortgage deed, the petitioner fraudulently got the sale deed executed. It was only at a subsequent point of time and that too, after depositing the loan amount in instalments, the respondent came to know the foul play committed by the petitioner and the same resulted in filing the suit for declaration and related prayer.

6. The plaint filed by the respondent in O.S.No.169 of 2015 cannot be axed at the threshold in view of the serious allegations made by the respondent. There are triable issues taken by the respondent in O.S.No.169 of 2015. There is no question of striking of the plaint on the basis of the contentions taken by the petitioner in the present Revision Petition. The petitioner must face trial.

7. In upshot, I dismiss the Civil Revision Petition. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

16.11.2016

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To

1. Subordinate Court, Hosur.

K.K.SASIDHARAN, J.,

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