

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2016

CORAM

THE HONOURABLE MS.JUSTICE R.MALA

CRP (PD).No.261 of 2009
and M.P.No.1 of 2009

Kandasamy

.. Petitioner

Vs

P.Manoharan

.. Respondent

Prayer:Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 04.11.2008 made in I.A.No.714 of 2008 in O.S.No.136 of 2004 on the file of the District Munsif Court, Dharmapuri.

For Petitioner : Mr.R.Thirugnanam
for Mr.C.H.Pandian

ORDER

The Civil Revision Petition is filed against the order dated 04.11.2008 made in I.A.No.714 of 2008 in O.S.No.136 of 2004 on the file of the District Munsif Court, Dharmapuri.

2.The respondent as a plaintiff filed a suit for specific performance on the basis of the sale agreement dated 20.04.2002 stating that the petitioner is the owner of the property. They entered into a sale agreement for

Rs.1,00,000/- . The petitioner/defendant received Rs.95,000/- as advanced and the balance amount of Rs.5,000/- has to be paid whenever the respondent/plaintiff was called for. Even though the respondent is ready and willing to perform his part of the contract, the petitioner is not ready and willing to perform his part of the contract. Hence, the respondent issued a notice and filed the suit. The defendant raised the plea that it is only a document which has been executed and registered as security for the amount borrowed and he also repaid the amount on several dates. He further stated that it is not the intention of the party to sell the property and prayed for dismissal of the suit. During the pendency of the suit, the petitioner filed an application in I.A.No.714 of 2008 for reception of additional evidence. The Trial Court after hearing both sides, dismissed the application. Against which, the present Civil Revision Petition has been filed.

3.Learned counsel for the petitioner submitted that he has not taken any inconsistent and mutually destructive plea. That factum was not considered by the Trial Court. Hence, he prayed for setting aside the impugned order passed by the Trial Court.

4. Even though the respondent was served, there is no representation on behalf of the respondent. Hence, the matter was posted today (06.01.2016). Even today, there is no representation on behalf of the respondent.

5. Considering the submission made by the learned counsel for the petitioner and also perused the typed set of papers and the additional written statement, it shows that only with a view to drag on the proceeding, additional written statement has been filed. On perusal of paragraph Nos. 2 and 3 of the additional written statement, he has stated that the respondent/plaintiff is not ready and willing to perform his part of the contract which shows that the sale agreement has been executed only as security for the amount borrowed. In the latter portion of paragraph No. 4 of the written statement he has stated that he has borrowed money and for the same, he had executed the sale agreement. In such circumstances, I am of the view that the Trial Court has rightly held that this application was filed only with a view to drag on the proceeding to defeat the rights of the plaintiff. Hence, I do not find any reason to interfere with the finding of the Trial Court and the same is hereby confirmed. Consequently, the Civil Revision Petition deserves to be dismissed as devoid of merits.

R.MALA. J.,

cse

8.In the result, the the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. Further, since the suit is of the year 2004, the Trial Court is directed to dispose of the suit in O.S.No.136 of 2004 within six months from the date of receipt of a copy of this order.

06.01.2016

Index: Yes/No
Internet: Yes/No
cse

To

The District Munsif Court, Dharmapuri.

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