



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.03.2016

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (MD) No.671 of 2016 (PD)

and

C.M.P. (MD).3130 of 2016

Sumathi

... Petitioner

Vs.

M.Meenakshisundaram

... Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 08.01.2016 in I.A.No.461 of 2015 in O.S.No.78 of 2014, on the file of the Sub Court, Uthamapalayam.

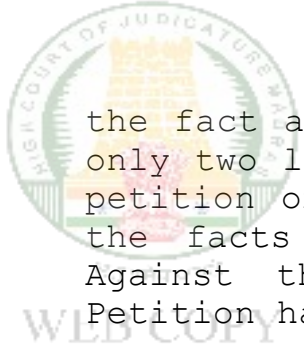
For Petitioner : Mr.S.Balamurugan

For Respondent : Mr.S.Kadarkarai
For caveator

ORDER

This memorandum of Civil Revision Petition has been filed against the fair and decretal order, dated 08.01.2016 in I.A.No.461 of 2015 in O.S.No.78 of 2014, on the file of the Sub Court, Uthamapalayam.

2. The petitioner is the defendant and the respondent is the plaintiff in the Suit. The plaintiff filed the Suit in O.S.No.78 of 2014, for specific performance. The petitioner filed written statement and after framing the issues, trial commenced. The respondent was examined as PW1 and the petitioner filed proof affidavit and he was examined in chief. The petitioner also examined as DW1 and the suit was posted for further evidence of the petitioner. At that time, the petitioner filed I.A.No.461 of 2015 for amendment of the written statement to effect that a sum of Rs.3,00,000/- was borrowed and to be repaid together with the interest at the rate of 5% instead of 2,00,000/- to be repaid at the rate of 2% interest. The respondent filed counter affidavit and opposed the same and stated that the petitioner has admitted



the fact at the time of cross-examination that amount borrowed is only two lakhs to be repaid with 10% interest. He has filed this petition only to prolong the issue. The learned Judge considering the facts and materials on record, dismissed the application. Against that order of dismissal, the present Civil Revision Petition has been filed.

3. The learned counsel for the petitioner submitted that the learned Judge failed to see the Order 6 Rule 17 C.P.C. and as per the said rule, amendment can be ordered at any stage of the suit. The respondent denied the execution of agreement of sale. The learned Judge failed to see that the amendment sought for is only to correct the typographical error. The learned counsel for the caveator submitted that the petitioner in the written statement as well as in the cross-examination admitted that she borrowed only two lakhs to be paid together with 10% interest.

4. Heard the learned counsel for the petitioner as well as the caveator and perused the materials available on record.

5. From the records, it is seen that the petitioner in his written statement has stated that she borrowed two lakhs to be repaid along with 10% interest and also accepted in the cross-examination. Therefore application for amendment filed, after the acceptance of the fact in the cross-examination, is not maintainable in the facts and circumstances of the case. The petitioner has come up with this petition only to prolong the proceedings. Both the learned counsel for the petitioner and the respondent submitted that already trial was commenced and therefore they want a direction from this Court for speedy disposal of the Suit in O.S.No.78 of 2014.

6. In the circumstances, the learned Sub Judge, Uthamapalayam, Theni District, is directed to dispose the Suit in O.S.No.78 of 2014 as expeditiously as possible in any event not later than 30th day of July, 2016.

7. With the above direction, this Civil Revision Petition is dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar()

/TRUE COPY/



To
The Sub Judge, Uthamapalayam,
Theni District.

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+1 cc to Mr. S. Balamurugan, Advocate, Sr.No.17420

+1 cc to Mr. S. Kadarkarai, Advocate, Sr.No.17166

pjl

JM/GSV-PM/13.04.2016/3P-4C

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and
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