

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.1217 of 2014

V.Kumar

.. Petitioner

Vs.

1.V.N.Sampath
2.V.N.Pandian
3.G.Malliga
4.S.Ambiga

.. Respondents

PRAYER: Civil Revision Petition is filed under Section 115 of C.P.C., against the order and decree dated 27.09.2013 made in I.A.No.109 of 2013 in O.S.No.22 of 2012 on the file of the I Additional District and Session Court, Vellore, Vellore District.

For Petitioner : Mr.A.Gouthaman

For Respondents : No Appearance

ORDER

The Civil Revision Petition is filed against the order and decree dated 27.09.2013 made in I.A.No.109 of 2013 in O.S.No.22 of 2012 on the file of the I Additional District and Session Court, Vellore, Vellore District.

2. The petitioner is the plaintiff and the respondents are the defendants in O.S.No.22 of 2012 on the file of the I Additional District and Session Court, Vellore, Vellore District. The petitioner filed the said suit for specific performance of the sale agreement dated 12.10.2007. The said suit was decreed by the decree and judgment dated 17.06.2013 directing the petitioner to pay the balance sale consideration of Rs.12,50,000/- within 15 days from the date of judgment and on such payment, directed the respondents to execute the sale deed with regard to common 6/7 shares in the suit property within one month. The petitioner filed present I.A.No.109 of 2013 under Sections 151, 152 and 153 of CPC, to amend the decree to pay the balance sale consideration amount is Rs.10,28,350/- for the value of 6/7 shares over the suit

property instead of balance sale consideration of Rs.12,50,000/-.

3. According to the petitioner, as per the decree, the respondents agreed to measure the land at the time of execution of the sale deed and receive the balance sale consideration for the extent of the land available. The total extent of the suit property is 5 acres, out of which, 4 acres and 28.5 cents is 6/7 share and its value is Rs.13,28,350/-. After deducting the advance amount of Rs.3,00,000/-, the petitioner has to pay only a sum of Rs.10,28,350/- instead of Rs.12,50,000/-.

4. The learned Judge by order dated 27.11.2013, dismissed the application on the ground that the Court which passed the decree can only correct the decree, if there is either typographical mistake or numerical error. If the petitioner is aggrieved by the decree with regard to payment of balance sale consideration, the remedy available to the petitioner is only by way of an appeal or revision.

5. Against the said order dated 27.11.2013 made in I.A.No.109 of 2013, the present Civil Revision Petition is filed by the petitioner.

6. Heard the learned counsel for the petitioner and perused the materials available on record.

7. The judgment or decree can be amended by the Court as per the power conferred under Section 152 of CPC and also inherent power of the Court under Section 151 of CPC, an amendment can be carried out, if there is any clerical or arithmetic mistake that has crept in from any accidental slip or omission. The Court can correct the judgment, decree or order at any time either on *suo-motto* or add to the terms of the original order or decree. After judgment has been delivered in the case, the party has no power to re-argue the matter or argue on new facts. The clerical mistake is a mistake committed by the Registry and arithmetic mistake is a miscalculation.

8. In the present case, the petitioner is seeking to correct the decree by altering the amount mentioned in the judgment. This alteration cannot be done as it is not arithmetic or clerical error from any accidental slip or omission. In view of the scope of Section 152 C.P.C., the petitioner cannot seek the relief by way of

amendment of decree. In the circumstances, there is no illegality or irregularity warranting interference by this Court with the order of the learned trial Judge, dated 27.11.2013.

9. In the result, the Civil Revision Petition is dismissed. No costs.

24.11.2017

Index : Yes/No

dm/kj

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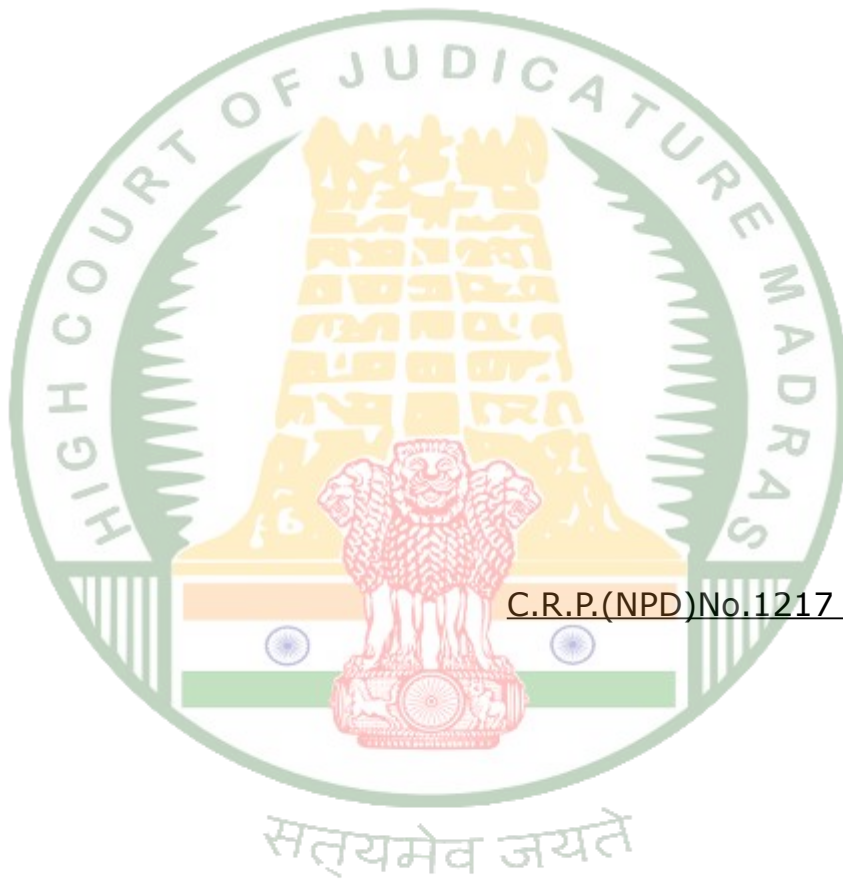
The I Additional District and Session Judge,
Vellore, Vellore District.



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V.M.VELUMANI, J.

dm/kj



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