

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **23.06.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.479 of 2014 and
M.P.No.1 of 2014

C.Ravi ...Petitioner

versus

Santhiyagu Lawis ...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decreetal order passed in I.A.No.678 of 2013 in O.S.No.534 of 2007 on the file of the Additional District Munsif Court, Alandur dated 03.10.2013.

For Petitioner : Mr.B.Vijay

For Respondent : Mr.A.Prabhakaran

ORDER

The petitioner, initially filed a suit for permanent injunction. Thereafter, the petitioner filed an application for amendment of the plaint seeking the relief of specific performance. The application was dismissed by the learned Additional District Munsif, Alandur. The order dated 3 October, 2013 in I.A.No.678 of 2013 in O.S.No.534 of 2007 is under challenge in this civil revision petition.

2. The petitioner filed the suit in O.S.No.534 of 2007 with a contention that the respondent entered into an agreement with him to sell the suit schedule property. The agreement was executed on 10 July 2005. Even though the petitioner was ready and willing to perform his part of the contract, the respondent failed to receive the balance consideration and execute the sale deed. The petitioner claimed that he was put in possession of the property. Since there was a threat to his possession, the petitioner filed the suit for permanent injunction.

3. The petitioner filed the application for amendment with additional pleadings long after the initiation of the original suit.

4. The cause of action for filing the suit initially was on the basis of the sale agreement dated 10 July, 2005. The petitioner, for the reasons best known failed to seek liberty under Order 2 Rule 3 of the Code of Civil Procedure. The petitioner relinquished the claim under Order 2 Rule 2 CPC. The application for amendment was filed long after the initiation of the suit. The petitioner wanted certain factual particulars to be incorporated in the plaint, besides the prayer for specific performance. There is no question of permitting the amendment of the plaint for the purpose of introducing a prayer for

specific performance after considerable period, notwithstanding the statutory bar. The initial defect cannot be cured by amendment of the plaint. I am therefore of the view that the Trial Court was correct in dismissing the application for amendment.

5. The Trial Court has given cogent reasons in its order. There is no question of re-appreciating the reasons given by the learned Trial Judge by exercising the revisional jurisdiction under Article 227 of the Constitution of India.

6. In the up shot, I dismiss the Civil Revision Petition. No costs. Consequently, connected miscellaneous petition is closed.

23.06.2017

svki

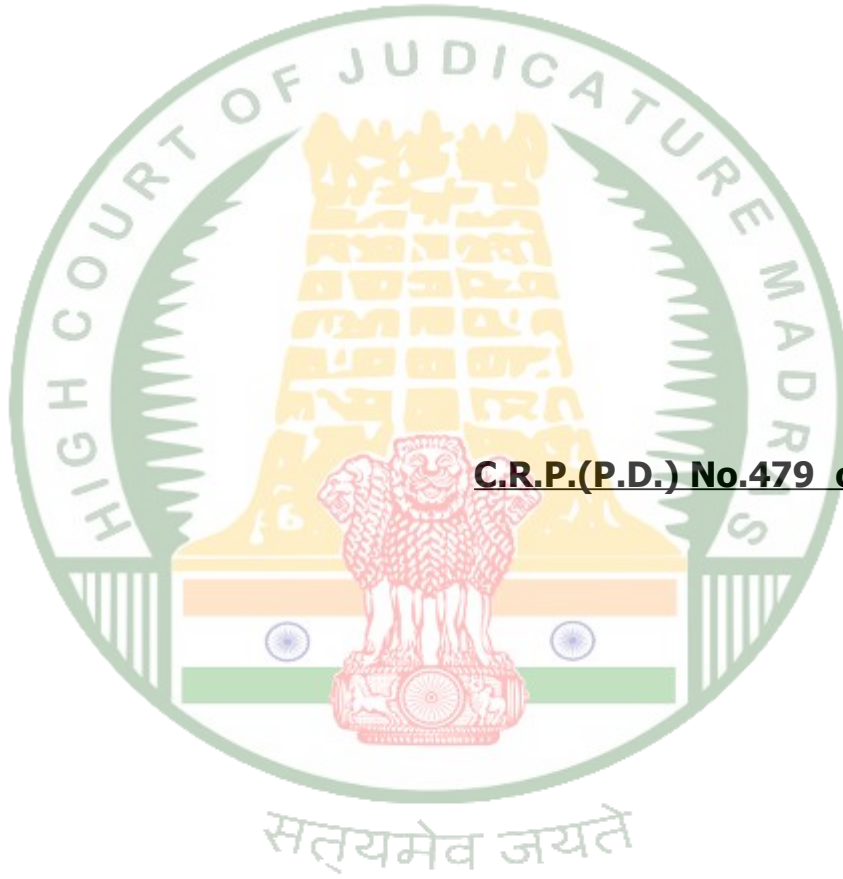
To

The Additional District Munsif, Alandur

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K.K.SASIDHARAN, J.

(svki)



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