

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD) No.2292 of 2009

M.Kasilingam

.. Petitioner

Vs.

1. T.Rajendran
2. T.Ravi
3. T.Anbazagan
4. Bhavani
5. T.Rajakumari

.. Respondents

**PRAYER:** Civil Revision Petition filed under Section 115 of Civil Procedure Code, against the order dated 20.09.2007 made in unnumbered O.S.SR.No.1279 of 2007 on the file of the Subordinate Court, Kancheepuram.

For Petitioner : Mr.P.Rajamanickam  
For R-1 : Died  
R-2 : No appearance  
RR3 to 5 : Mr.T.Sathiyamoorthy

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ORDER

This Civil Revision Petition has been filed against the order dated 20.09.2007 made in unnumbered O.S.SR.No.1279 of 2007 on the file of the Subordinate Court, Kancheepuram.

2. The petitioner is the plaintiff and the respondents are the defendants in the suit. The petitioner filed O.S.SR.No.1279 of 2007 for specific performance of oral agreement against the legal heirs of one Thangavel Mudaliar, who are respondents herein. According to petitioner, respondents' father Thangavel Mudaliar and petitioner had entered into an oral agreement to sell the property in Survey Nos.2048 and 2075 in Salobogam Village. The deceased Thangavel Mudaliar had received a total sum of Rs.1,00,000/- as advance on two occasions, towards the part of the sale consideration and issued two receipts, dated 22.06.2000 and 19.08.2000 as acknowledgement of the same. The father of the respondents Thangavel Mudaliar died. After the death of Thangavel Mudaliar, the petitioner filed suit for specific performance against the respondents.

3. The learned Subordinate Judge, Kancheepuram considering the averments in the plaint and two receipts dated 22.06.2000 and 19.08.2000 produced by the petitioner along with the plaints, rejected the plaint, on the ground that the receipts produced by the petitioner shows that the transaction is only a money transaction and there was no agreement to sell the suit property to the petitioner and the father of the respondents was

making arrangement through the petitioner to sell the property to third parties and not to the petitioner.

4. Against the said order, dated 20.09.2007, made in O.S.SR.No.1279 of 2007 on the file of the Subordinate Court, Kancheepuram, the present CRP is filed.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondents 3 to 5 and perused the materials available on record.

6. In the typed set of papers, the petitioner has filed two receipts, issued by the father of the respondents. From the reading of the two receipts, it is clear that respondents' father has received the said amount as hand loan for his expenses and agreed to deduct the said amount, when the petitioner arranging the sale of the suit property to third parties. A reading of the receipts do not support the case of the petitioner that the respondents' father agreed to sell the suit property to the petitioner and received advance amount of Rs.1,00,000/- towards part of the sale consideration. On the other hand, the two receipts reveals that the

respondents' father was making arrangement through the petitioner to sell the suit property to third parties. In view of these receipts, claim of the petitioner that the respondents' father by oral agreement agreed to sell the suit property and received a sum of Rs.1,00,000/- on two dates towards the part of the sale consideration is without any merits.

7. The learned Judge, considering all the above facts rejected the plaint filed by the petitioner by giving cogent and valid reasons. In these circumstances, there is no illegality or irregularity warranting interference by this Court in the order of the learned trial judge, dated 20.09.2007.

8. In the result the Civil Revision Petition is dismissed. No costs.

11.07.2017

Speaking Order/Non-speaking Order

Index :Yes/No

pvs

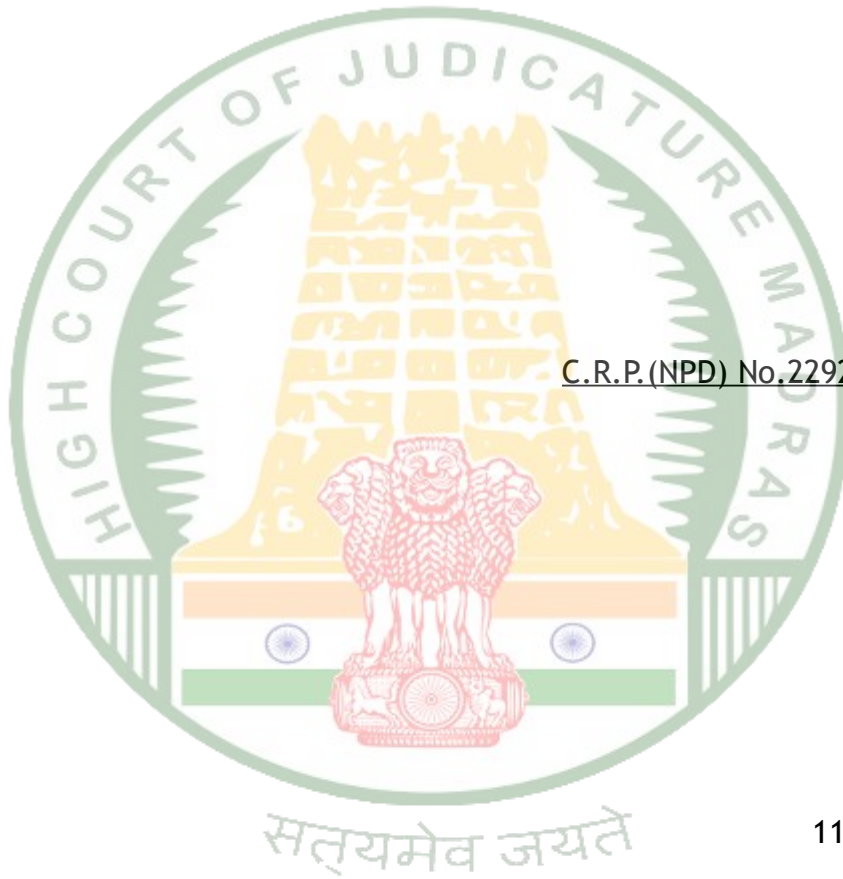
To

The Subordinate Judge,  
Kancheepuram

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V.M.VELUMANI, J.

pvs



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