



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)No.159 of 2017 (PD)

and

C.M.P(MD)No.658 of 2017

P.Kesavan

.. Revision Petitioner/ Petitioner/
Plaintiff

Vs.

T.Karunakaran

..Respondent/Respondent/Defendant

PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, to allow this Revision Petition and set aside the Order passed in I.A.No.363 of 2016 in O.S.No.1177 of 2011, on the file of the II Additional Subordinate Judge, Madurai dated 23.09.2016.

For Petitioner : Mr.C.K.M.Appaji

ORDER

The petitioner has filed this Civil Revision Petition to set aside the Order passed in I.A.No.363 of 2016 in O.S.No.1177 of 2011 by the II Additional Subordinate Judge, Madurai, dated 23.09.2016.

2.The petitioner is the plaintiff. The respondent is the defendant. The petitioner filed suit in O.S.No.1177 of 2011 before the II Additional Sub Court, Madurai for specific performance of agreement of sale dated 12.01.2009. The respondent filed written statement and additional written statement and denied the execution of agreement of sale and ownership of the property. The petitioner filed I.A.No.363 of 2016 for permission to file documents mentioned in the petition. According to petitioner, those documents were handed over to his earlier counsel, who did not file the documents along with plaint. His previous counsel became Judicial Officer and after getting bundle from him, he has filed the present application.

3.The respondent filed counter affidavit and denied all the averments made in the affidavit and denied the execution of agreement of sale. The respondent denied the averments made by the petitioner that he handed over the patta, chitta and other



documents relating to the properties to the petitioner. From the documents, it is seen that those documents are downloaded from computer. In the circumstances, those documents are not necessary to decide the issue in the present suit and prayed for dismissal of the application.

4.The learned Judge considering the averments made in the affidavit and counter affidavit and materials on record dismissed the application holding that the petitioner has to prove that the respondent has executed the agreement of sale and documents sought to be marked are not necessary to prove the signature of respondent in the agreement of sale.

5.Against the said order of dismissal, the petitioner has filed the present Civil Revision Petition.

6.The learned counsel for the petitioner submitted that the respondent in the written statement has stated that he is not owner of the property. In the circumstances, the document sought to be marked are necessary to prove the ownership of the respondent. The petitioner has to prove his readiness and willingness of his part of contract and has to prove that the petitioner has sufficient means to pay the balance sale consideration and get the sale deed executed in his favour. For that purpose, it is necessary to file documents to prove the ownership and means to pay the balance sale consideration.

7.I have heard the learned counsel appearing for the petitioner and also perused the entire materials on record.

8.The petitioner filed suit for specific performance of agreement of sale, dated 12.01.2009. According to petitioner, respondent agreed to sell the suit property for a sum of Rs.4,65,000/- and petitioner paid a sum of Rs.50,000/- as advance. The respondent also handed over Xerox copies of patta, chitta, 'A' register extract and gist receipt. The respondent denied the execution of agreement of sale. He also denied the ownership of the property. The petitioner filed I.A.No.363 of 2016 for marking of Xerox copy of patta, chitta, Adangal and 'A' Register extract and gist receipt and other documents to prove his capacity to pay the balance sale consideration. The learned Judge considering the nature of relief sought for by the petitioner and nature of defence taken by the respondent, dismissed the application on the ground that the petitioner has to prove execution of agreement of sale by respondent and for that purpose, documents sought to be marked are not necessary. The learned Judge properly exercised his jurisdiction conferred on him and there is no illegality or



9. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

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Sd/-
Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To
The II Additional Subordinate Judge,
Madurai.

AM
PSM/JM/10.02.2017/3P/2C

C.R.P (MD) No.159 of 2017 (PD)
24.01.2017