

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.07.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.No.1168 of 2018 and
C.M.P.No.6019 of 2018

P.Ranjini
Rep. by her Power of Attorney Agent
Mr.S.Sandrasekaran ... Petitioner/1st respondent
(Cause title accepted vide Court order dated 13.03.2018 made in CMP.No.5218 of 2018)

Vs.

- 1.G.Ambiganathan
2.The Sub Registrar,
Alandur,
1st Main Road, Nanganallur,
Chennai - 600 061.
3.The District Registrar,
Office at Saidapet,
Saidapet Taluk,
Chennai - 600 015. ... Respondents/Plaintiff/
Defendants 2&3

Civil Revision Petition has been filed under Article 227 of the Constitution of India to struck off the suit in O.S.No.426 of 2017 from the file of the Additional District Munsif Court, Alandur.

For Petitioner : Mr.R.Bharath Kumar
For R1 : Mr.S.N.Subramani
For R2 & R3 : Mr.P.P.Purushothaman, G.A.

ORDER

This civil revision petition has been filed against the suit in O.S.No.426 of 2017 from the file of the Additional District Munsif Court, Alandur.

2. The first respondent herein has filed a suit in O.S.No.426 of 2017 for permanent injunction, in which the petitioner herein is 1st defendant. The revision petitioner/1st defendant is the owner of the property and purchased the suit property under a registered sale deed dated 31.08.1998. He

further states that through brother-in-law of the revision petitioner have alleged to have agreed to sell the suit property. But he has not given any undertaking to sell the property and without knowing the fact, plaintiff deposited money with the 1st defendant. When the plaintiff demanded the 1st defendant to execute a sale deed in his favour, the 1st defendant refused to execute the sale deed in favour of the plaintiff in respect of the suit property. Since there is no agreement therefore there is no breach of contract between the parties. The plaintiff further states that the 2nd defendant is the competent authority to register the document in respect of the suit property. Hence, the plaintiff added the 2nd defendant as necessary party to the suit.

3. Challenging the above O.S.No.426 of 2017, the first defendant is before this Court with the present civil revision petition.

4. The learned counsel for the revision petitioner would submit that there is no cause of action and the respondent / plaintiff has no legal right against the petitioner for filing of the suit. Therefore this plaint should be struck off. Hence the revision petitioner disagrees with the cause of action alleged against him in the plaint. While dealing with relief of rejection of the plaint, the plaint averments should be taken into consideration and the defence taken by the defendant need not be taken into consideration. Further when the alternative remedy is available for the revision petitioner this Court has to sparingly exercise the power vested under Article 227 of the Constitution of India. Under these circumstances, this Court is not inclined to allow the revision petition.

5. In result, the revision petitioner is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

drl

Sd/-

Assistant Registrar(CS-vi)

//True Copy//

Sub Assistant Registrar

To

The Additional District Munsif Court,
Alandur.

+1 cc to MR.S.N.SUBRAMANI Advocate SR.NO. 47334

+1 cc to MR.R.BHARATH KUMAR Advocate SR.NO. 47631

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C.M.P.No.6019 of 2018

GJ(CO)

ASK(28/08/2018)