

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CRP(PD)No.2545 of 2017

and

CMP.Nos.12096 of 2017 and 6862 of 2018

Rajiv Agarwal

.. Petitioner

Vs

1.D.Duraisamy Naidu
2.Pushpa3.Logammal
4.Devaraj
5.Amsa
6.N.Rajagopal
7.Nirmala
8.S.Prabu
9.Umapathy
10.S.Ravi

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 21.02.2007 made in I.A.No.1331 of 2015 in O.S.No.9 of 2015 on the file of the learned District Munsif, Chengalpattu.

For Petitioner : No Appearance

For R1 : Mr.T.G.Dhinesh for
Mr.T.V.Krishnamachari

For R2 to R10 : No Appearance

ORDER

This Civil Revision Petition has been filed to set aside the order passed by the learned District Munsif, Chengalpattu in I.A.No.1331 of 2015 in O.S.No.9 of 2015 dated 21.02.2017.

2. The tenth defendant in O.S.No.9 of 2015 on the file of the District Munsif, Chengalpattu, is the revision petitioner herein.

3. According to the petitioner, the first respondent herein had filed the suit against the petitioner in O.S.No.9 of 2015 seeking declaration and permanent injunction. In the aforesaid suit, the petitioner has filed an application in I.A.No.1331 of 2015 in O.S.No.9 of 2015 to reject the plaint on the ground that the suit is barred by law under the provisions of Transfer of Property Act and Indian Registration Act. After the enquiry, the Trial Court dismissed the application. Aggrieved by the said order, the petitioner has filed the present civil revision petition before this Court.

4. According to the learned counsel for the petitioner, the suit is barred by law under the provision of the Transfer of Property Act. The petitioner has mentioned the same in the written statement. The trial court has failed to consider the facts of the case and dismissed the said application. The petitioner has filed an affidavit before the trial Court in I.A.No.1331 of 2015 and the written statement filed in the suit and it is barred by law.

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

6. The scope of Order VII Rule 11 of C.P.C. is very limited. At the time of deciding the application, the trial Court is expected to see only the pleadings of the plaintiff and no defence taken by the defendants and also no document produced by the defendants can be looked into. In this case, the plaintiff disclose the cause of action. A careful perusal of the averment of the plaintiff, it is not barred by any law as stated by the petitioner herein. Whatever the defence, the same can be established during the Trial. There is no merit in the Revision Petition and the Order VII Rule 11(d) does not attract in this case. Hence, this Revision Petition is liable to be dismissed.

P.VELMURUGAN,J.

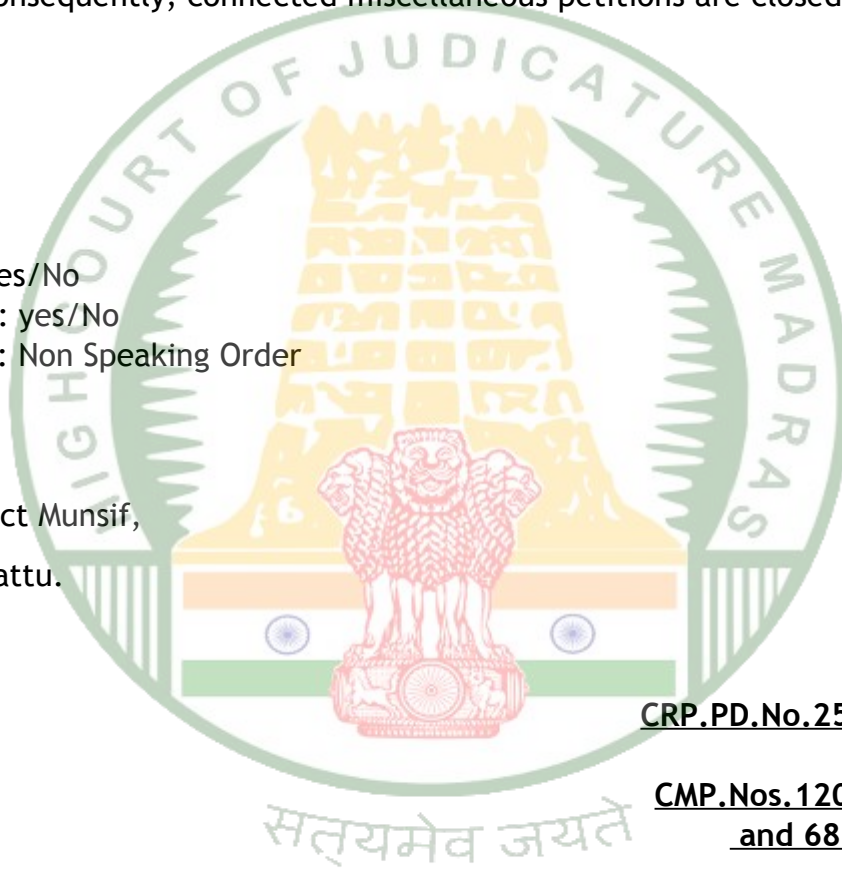
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7. In view of the above, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

20.04.2018

Index : yes/No
 Internet : yes/No
 Speaking : Non Speaking Order
 kkd

To
 The District Munsif,
 Chengalpattu.



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