

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.972 of 2014
& M.P.No.1 of 2014

1.Arumugam
2.Jeeva

.. Petitioners

Vs.

Selva Raj

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 26.08.2013 made in I.A.No.1441 of 2011 in O.S.No.182 of 2011 on the file of the District Munsif Court, Attur.

For Petitioners : Mr.R.Vivekananthan

For Respondent : No appearance

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 26.08.2013 made in I.A.No.1441 of 2011 in O.S.No.182 of 2011 on the file of the District Munsif Court, Attur.

2.The petitioners are the defendants and respondent is the plaintiff in O.S.No.182 of 2011 on the file of the District Munsif Court, Attur. The respondent filed the said suit for declaration to declare the sale deed dated 01.06.2011 executed by the 1st petitioner in favour of the 2nd petitioner as null and void and to restrain the 1st petitioner from giving possession of the suit property to the 2nd petitioner or the 2nd petitioner from taking possession of the suit property from the 1st petitioner. The petitioners filed I.A.No.1441 of 2011 under Order VII Rule 11 and Section 151 of C.P.C for rejection of plaint on the ground that respondent has stated in the plaint about the agreement of sale between the first petitioner and respondent without filing a suit for specific performance of agreement of sale and hence, the present suit is not maintainable.

3.Before the learned Judge, the respondent did not file any counter affidavit.

4.The learned Judge considering the averments in the plaint and affidavit filed by the petitioners, rejected the contentions of the petitioners and dismissed the application.

5. Against the said order of dismissal dated 26.08.2013 made in I.A.No.1441 of 2011 in O.S.No.182 of 2011, the petitioners have come out with the present Civil Revision Petition.

6. Heard the learned counsel for the petitioners and perused the materials available on record. Though notice has been served on the respondent and his name is printed in the cause list, there is no representation for him either in person or through counsel.

7. From the averments in the affidavit and contentions raised in the grounds of revision, it is seen that the petitioners are raising issues with regard to maintainability of the suit on the ground that respondent ought to have prayed for relief of specific performance of sale along with present relief. The contention of the learned counsel for the petitioners relates only to filing of the specific performance of the suit by the respondent. These contentions are not valid grounds for rejection of plaint. The petitioners have not made out any case for rejection of plaint and have not satisfied the Court with regard to the ingredients under Order VII Rule 11 of C.P.C. In the circumstances, I hold that the learned Judge has rightly dismissed the application by giving cogent and valid reason.

There is no illegality or irregularity warranting interference by this Court with the order of the learned Judge dated 26.08.2013 made in I.A.No.1441 of 2011 in O.S.No.182 of 2011.

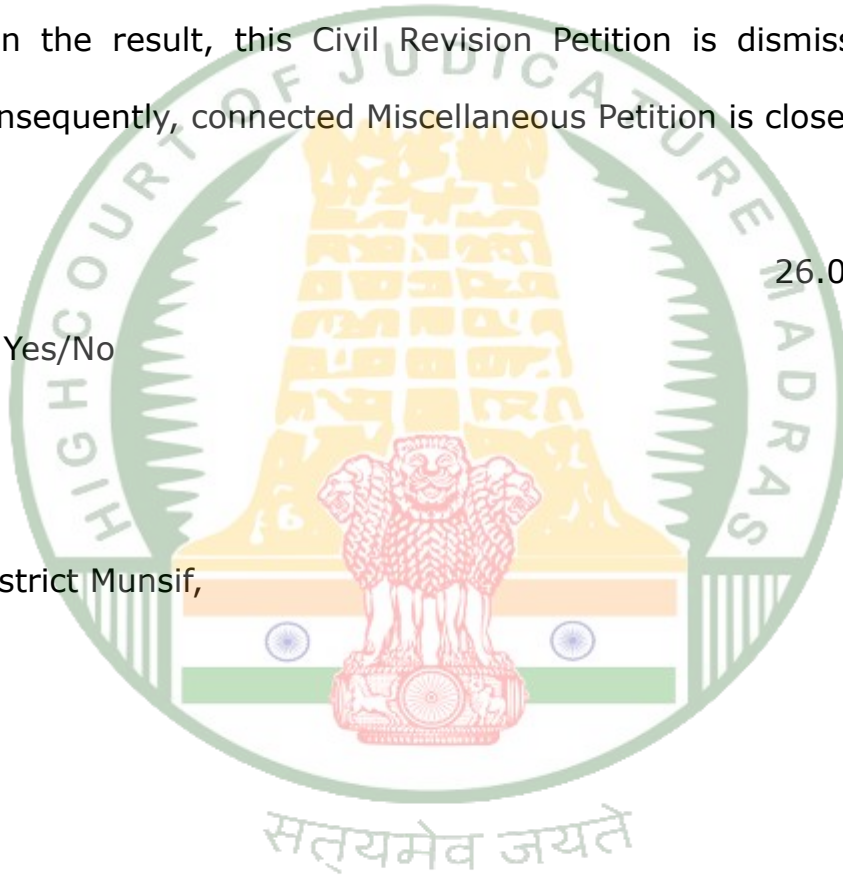
8.In the result, this Civil Revision Petition is dismissed. No costs Consequently, connected Miscellaneous Petition is closed.

26.03.2018

Index :: Yes/No
gsa

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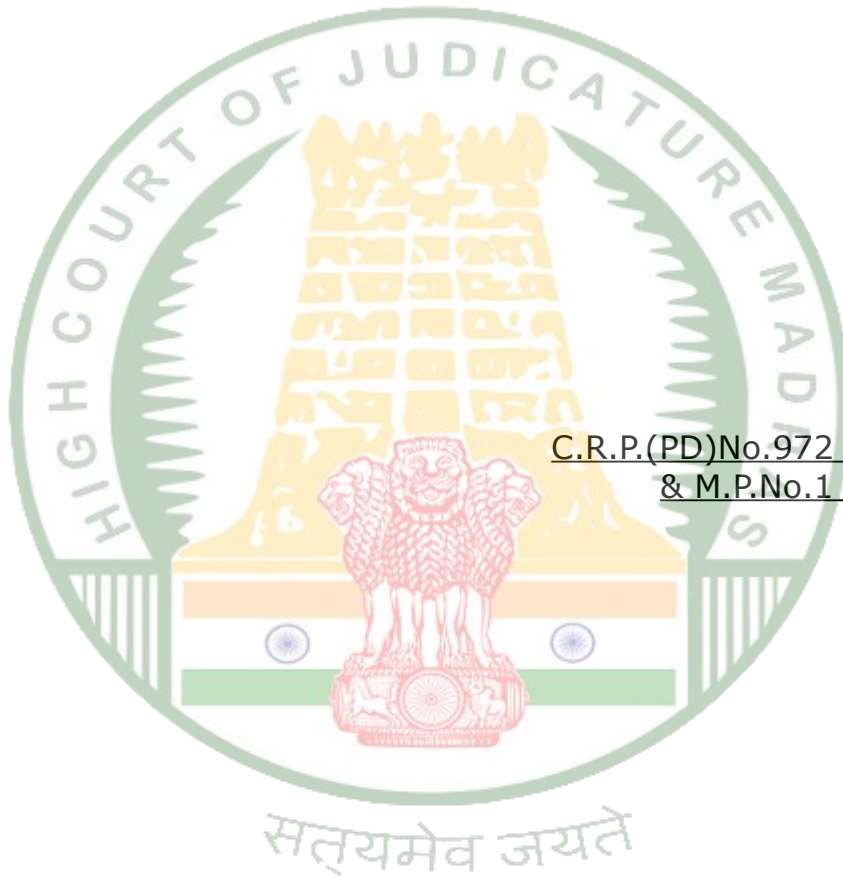
The District Munsif,
Attur.



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V.M.VELUMANI,J.

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C.R.P.(PD)No.972 of 2014
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26.03.2018