

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.01.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.810 of 2015
and M.P.No.1 of 2015

Karunakaran

.. Petitioner

Vs.

1.Subramaniam

2.Rajeswari

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 07.04.2014 made in I.A.No.197 of 2014 in O.S.No.64 of 2010 on the file of the Subordinate Court, Gobichettipalayam.

For Petitioner : Mr.Lokesh for
Mr.MA.P.Thangavel

For Respondents : Mr.K.Govi Ganesan

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 07.04.2014 made in I.A.No.197 of 2014 in O.S.No.64 of 2010 on the file of the Subordinate Court, Gobichettipalayam.

2. The petitioner is plaintiff and the respondents are the defendants in O.S.No.64 of 2010 on the file of the Subordinate Court, Gobichettipalayam. The petitioner filed said suit for specific performance of agreement of sale. The respondents filed written statement and are contesting the suit. The petitioner filed I.A.No.197 of 2014 to amend the plaint as mentioned in the petition. According to the petitioner, by inadvertence, some mistakes have crept in in the plaint and the same have to be rectified, otherwise it will cause injustice to the petitioner. The respondents did not file counter, but made an endorsement that amendment sought for by the petitioner is unnecessary as they are already available in the plaint. The learned Judge dismissed the application on the ground that the petitioner filed application only to delay the proceedings.

3. Against the said order of dismissal dated 07.04.2014 made in I.A.No.197 of 2014 in O.S.No.64 of 2010, the present Civil Revision Petition is filed by the petitioner/plaintiff.

4. Heard the learned counsel for the petitioner as well as the respondents and perused the materials available on record.

5. From the impugned order of the learned Judge, it is seen that the learned Judge has not considered the averments made in the plaint, but dismissed the application by recording the endorsement made by the learned counsel for the respondents. The learned Judge has not passed any speaking order by giving any valid reason.

6. In view of the above, impugned order of the learned Judge dated 07.04.2014 made in I.A.No.197 of 2014 is liable to be set aside and it is hereby set aside. Accordingly, the Civil Revision Petition is allowed. The matter is remitted back to the learned Judge to consider the application in I.A.No.197 of 2014 and dispose the same on merits and in accordance with law, within a period of two months from the date of receipt of a copy of this order. The learned Judge is also directed to dispose of the suit O.S.No.64 of 2010 within three months thereafter. No costs. Consequently, connected Miscellaneous Petition is closed.

17.01.2018

Index : Yes/No

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V.M.VELUMANI, J.

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To

The Subordinate Judge, Gobichettipalayam.



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