



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2018

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

C.R.P(MD)No.50 of 2018 (PD)

M.Balamurali

... Petitioner/Plaintiff

Vs.

1.Santhi
2.Poorani
3.Kathirvel
4.A.Solamalai
5.The District Registrar,
Office of the District Registrar,
Dindigul District.

6.The Sub Registrar,
Office of the Sub Registrar,
Kodaikanal.

...Respondents/Defendants

PRAYER: Civil Revision Petition filed under Section 115 of Code of Civil Procedure, to set aside the returned order dated 02.11.2017 and 12.12.2017 made in unnumbered O.S.No.-- of 2017 on the file of the learned Subordinate Judge, Palani Camp at Kodaikanal and direct the learned Judge to number the above suit.

For Petitioner

: Mr.R.Balakrishnan

ORDER

This Civil Revision Petition has been filed challenging the return of unnumbered O.S.No.---- of 2017 on the file of the learned Subordinate Judge, Palani Camp at Kodaikanal , dated 02.11.2017 and 12.12.2017.

2. Heard the learned Counsel for the petitioner and perused the materials available on record. Notice to the respondents is dispensed with.

3. The learned Counsel for the petitioner submitted that he has filed a suit for Specific Performance before the learned Subordinate Judge, Palani, camp at Kodaikanal. He further submitted that the plaint has been returned on 02.11.2017, stating that "how this suit is maintainable since the agreement is not registered" and the petitioner has represented the same by producing the judgment reported in 2017(5) CTC 33. But the Trial Court has again returned the plaint, without assigning any reason on 12.12.2017, aggrieved by which, this civil revision petition has been filed by the petitioner.



4. The learned Counsel for the petitioner referred to the Judgment reported in 2017(5) CTC 33 in Bollineri Developers Ltd., Vs. K.Sailendra Kumar and others, wherein it has been held that since the suit is filed for mere enforcing the contract between the parties, the same is maintainable and unregistered agreement of sale can be received in a suit for specific performance.

5. A perusal of records shows that the suit has been filed for Specific Performance. This Suit is filed merely for enforcing the Contract. Such suit cannot be termed as a suit for land and therefore, in my considered opinion, as per the above judgment, the learned Subordinate Judge, Palani Camp at Kodaikanal has to number the petition and dispose of the same on merits.

6. In the result, this Civil Revision Petition is allowed and the order dated 12.12.2017 made in unnumbered O.S.No.-- of 2017 is set aside. The petitioner/plaintiff is directed to submit the returned plaint along with the copy of this order within a period of one week from the date of receipt of copy of this order, before the learned Subordinate Judge, Palani Camp at Kodaikanal, who in turn, is directed to number the plaint and dispose of the same on merits and in accordance with law. No costs.

Sd/-

Assistant Registrar(Crl. side)

/True Copy/

Sub Assistant Registrar

To

- 1.The Subordinate Judge,
Palani Camp at Kodaikanal.
- 2.The District Registrar,
Office of the District Registrar,
Dindigul District.
- 3.The Sub Registrar,
Office of the Sub Registrar,
Kodaikanal.

COPY TO:

The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. **(Two Copies)**

+1cc to Special Government Pleader, SR.No. 48816
+1cc to M/S.R.Balakrishnan, Advocate SR.No. 48596

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