



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 13.07.2018

CORAM :

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

C.R.P. (MD) (PD) No.740 of 2014

and

M.P. (MD) No.2 of 2014

1.K.Mayilvahanan

2.K.Sivasubramania Siva

...Petitioners/Respondents 1 and 2/
Plaintiffs 1 and

vs.

1. UCO Bank,

Thoothukudi Branch,

through its Branch Manager,

No.208, C & D, V.E.Road,

Tuticorin -3.

... 1st Respondent/Petitioner/3rd Defendant

2.S.Subramanian

3.N.Ulaganathan

...2nd & 3rd Respondents/3rd & 4th Respondents/
1st and 2nd Defendants

Prayer:-Civil Revision Petitions filed under Article 227 of the Constitution of India, to call for the records in I.A.No.1633 of 2011 in O.S.No.466 of 2010 on the file of Principal District Munsif Court, Thoothukudi and set aside the order dated 09.12.2011 passed in this said I.A.No.1633 of 2011 and dismiss the said I.A.No.1633 of 2011 and direct the suit in O.S.No.466 of 2010 being taken into file and proceed as per law.

For Petitioners : Mr.C.Dhanaseelan

For R1 : Mr.P.T.S.Narendravasan

For R2 : No appearance

For R3 : Died

ORDER

This civil revision petition has been filed as against the order passed by the Principal District Munsif Court, Thoothukudi in I.A.No.1633 of 2011 in O.S.No.466 of 2010.

2.In this civil revision petition, the petitioners are the plaintiffs in the suit in O.S.No.466 of 2010 on the file of the Principal District Munsif Court, Thoothukudi.

3.The plaintiffs filed the suit for specific performance of an agreement of sale dated 09.07.2007.



4. During the pendency of the suit, the third defendant in the suit filed an application in I.A.No.1633 of 2011 in O.S.No.466 of 2010 under Order VII Rule 11 CPC, to reject the plaint. The said application was dismissed by the lower Court. Aggrieved by the same, the plaintiffs have preferred the above civil revision petition.

5. The said order, rejecting the application under Order VII Rule 11 CPC, is challenged before this Court on the ground that the lower Court has no jurisdiction. As against the order, rejecting the application, it is well settled that a regular appeal under Section 96 of the Code of Civil Procedure alone is only maintainable.

6. In the above circumstances, this civil revision petition is dismissed as not-maintainable, in view of the alternative remedy of regular appeal available to the revision petitioners. However, liberty is given to the revision petitioners to file a regular appeal as against the order passed by the lower Court and for the purpose of limitation, the petitioners are entitled to exclude the time during which the above civil revision petition is pending before this Court. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar(CS-IV)

To
The Principal District Munsif,
Thoothukudi.

Copy to

The Section Officer, (2 copies)
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.P.T.S.Narendravasan, Advocate Sr.No.72750
+1cc to Mr.C.Dhanaseelan, Advocate Sr.No.72774

MM

VB/SKN/RSK/SAR4/01.08.2018/2P/6C

**C.R.P. (MD) (PD) No.740 of 2014
and**

**M.P. (MD) No.2 of 2014
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