



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

CRP (MD).No. 2515 of 2015

and C.M.P.(MD) No. 1 of 2015

WEB COPY

Gnanapushpam

.. Petitioner/Petitioner/Defendant

Vs.

C. Murugesan

.. Petitioner/Respondent/Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 09.04.2015 in I.A.No.94 of 2014 in O.S.No.96 of 2011 on the file of the learned Subordinate Judge, Uthamapalayam and allow this Civil Revision Petition.

For Petitioner : Mr.K. Guhan

For Respondent : Mr.R. Suriya Narayanan

O R D E R

The Civil Revision Petition has been filed by the Petitioner seeking to set aside the fair and decreetal order dated 09.04.2015 in I.A.No.94 of 2014 in O.S.No.96 of 2011 on the file of the learned Subordinate Judge, Uthamapalayam and allow this Civil Revision Petition.

2. The petitioner is the defendant and the respondent is the plaintiff in O.S.No.96 of 2011. The plaintiff has filed O.S.No.96 of 2001 before the Sub-Court, Uthamapalayam seeking for Specific Performance and for other reliefs. During the pendency of the suit, the petitioner/defendant has filed an application in I.A.No.94 of 2014 in O.S.No.96 of 2011 before the trial Court under Order 7, Rule 11 and Section 17 of Indian Registration Act and Section 35 of Indian Stamp Act, seeking that the prime document, dated 09.04.2009, filed by the plaintiff is not a valid one, hence prayed for dismissal of suit and the trial Court has dismissed the said interlocutory application. Aggrieved over the same, the petitioner/defendant has come forward with this Civil Revision Petition.

3. Heard the learned counsel for the petitioner and perused the documents available on record.

4. The Civil Revision Petition has been filed on the ground that the very same sale agreement dated 09.04.2009 is not a registered one and therefore the plaintiff has to pay the Court fee for the value of the sale agreement.



5. Order 7 Rule 11 of Civil Procedure Code is described as follows:

Rejection of plaint- The plaint shall be rejected in the following cases:

- (a) where it does not disclose a cause of action;
- (b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;
- (c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;
- (d) where the suit appears from the statement in the plaint to be barred by any law :

6. It is the case of the defendant is that the very same prayer made for specific performance is based on the unregistered sale agreement which can be decided by the very same trial Court by framing necessary issues, since the sale agreement is unregistered one and there is no prayer sought for. Therefore, that can be decided by the trial Court. Hence, regarding the said relief, I am not inclined to allow the Civil Revision Petition.

7. Accordingly, the Civil Revision Petition is dismissed, by confirming the order dated 09.04.2015 in I.A.No.94 of 2014 in O.S.No.96 of 2011, on the file of the learned Subordinate Judge, Uthamapalayam. The learned Subordinate Judge, Uthamapalayam is directed to frame necessary issues in respect of the unregistered sale agreement in question and thereafter to decide the other issues and dispose the suit in O.S.No.96 of 2011 within a period of three months from the date of receipt of copy of this order, by conducting trial on day-to-day basis, without giving any unnecessary adjournments to both parties and the parties are also directed to give their fullest cooperation for early disposal of the suit. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(C.O.)

/True Copy/

Sub Assistant Registrar

To

The Subordinate Judge, Uthamapalayam.

+1CC to Mr.R.Suriya Narayanan, Advocate, SR.No. 64625

+1CC to Mr.K.Guhan, Advocate, SR.No. 63583

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