



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.R.P. (MD) No. 1000 of 2018

and

C.M.P. (MD) No.4348 of 2018

K. Manoharan

... Petitioner/Defendant

-vs-

Prabhuram

... Respondent/Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to strike down the plaint filed by the respondent/plaintiff in O.S.No. 48 of 2017 which is pending on the file of the learned Principal District Judge, Sivagangai.

For Petitioner : Mr.P. Ganapathi Subramanian

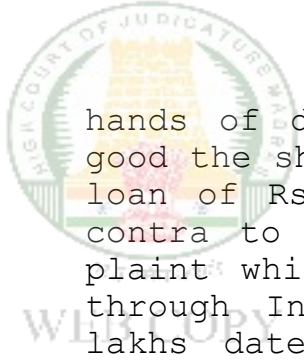
O R D E R

The revision petitioner is the defendant in O.S.No.48 of 2017 on the file of the learned Principal District Judge, Sivagangai and the plaintiff, among various other reliefs, sought for recovery of money in the suit. The said suit was taken on file and numbered as O.S.No.48 of 2017, aggrieved by which, the defendant/revision petitioner herein is before this Court for striking off the plaint itself.

2. It is the case of the revision petitioner that the revision petitioner/defendant and the plaintiff are relatives and on the advice of the plaintiff, the petitioner invested an amount of Rs.80,00,000/- for the real estate joint venture business. Apart from the above, he also extended financial assistance of Rs.27,70,000/- to the respondent/plaintiff and the loan amount was transferred to the plaintiff by way of crossed cheque, banking fund transfer and cash on various dates. Subsequently, the revision petitioner/defendant, on knowing that the plaintiff, with the help of a local document writer got the revision petitioner's original sale deed from the concerned registration office after completion of registration procedures as if the defendant received the same from the registration office, demanded to repay the entire loan amount of Rs.27,70,000/- to him and also demanded the return of the land of 1 acre 70 cent to him.

<https://hcservices.ecourts.gov.in/hcservices/>

3. It is the further case of the petitioner that that there was shortage of amount for paying the sale consideration in the



hands of defendant for purchasing suit property in order to make good the shortage of sale consideration and the plaintiff extended a loan of Rs.30 lakhs to defendant on 03.02.2017, however it is in contra to the written statement in document no.1 annexed to suit plaint which clearly showed that the sale consideration was paid through Indian Bank demand draft bearing no.271449 for Rs.27.30 lakhs dated 02.02.2017, which would clearly establish that this defendant in fact had enough money in his bank account to pay the entire sale consideration well before the day of alleged loan.

4. Heard the learned counsel for the petitioner and the notice to other side is dispensed with, in view of the nature of disposal of this case.

5. Admittedly, the plaintiff had filed a suit in O.S.No.48 of 2017 on the file of the learned Principal District Judge, Sivagangai under Section Order VII Rule 1 of Civil Procedure Code. A perusal of the averments made in this petition, coupled with the facts narrated in the plaint would amply unravel the fact that there are a lot of disputed question of facts revolving around the property in question. Moreover, the petitioner, without exhausting the remedy before the Court below under Order VII Rule 11 of the Civil Procedure Code, has straightaway approach this Court under Article 227 of the Constitution of India for rejection of the plaint.

6. Considering the nature of dispute between the parties, this Court feels that it may not be appropriate for this Court to strike off the plaint at this stage, instead, in the interest of justice, a direction shall be issued to the Trial Court for speedy disposal of the suit.

7. In the result,

a) this Civil Revision Petition is dismissed;

b) the learned Principal District Judge, Sivagangai is directed to dispose of the main suit in O.S.No.48 of 2017 filed by the plaintiff, within the period of two months from the date of copy of receipt of this Order;

c) liberty is granted to the revision petitioner to approach the concerned Court by invoking the provisions of Order VII Rule 11 of the Civil Procedure Code, if so required.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True copy/



To:

The Principal District Judge,
Sivagangai District,
Sivagangai.

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+1cc to Mr.P. Ganapathi Subramanian, Advocate, SR.No.64391.

C.R.P. (MD) No. 1000 of 2018
28.04.2018

ksa

RAM/SV MMS/SAR 3/25.06.2018/3P/3C