



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 24.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
C.R.P. (MD)No.338 of 2016

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Mani

.. Petitioner / Petitioner /
2nd Defendant

vs.

1.Jayaraman

.. 1st Respondent/ 1st Respondent/
Plaintiff

2.Perumal

.. 2nd Respondent / 2nd Respondent/
1st Defendant

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, against the fair and decreetal order dated 21.11.2015 in I.A.No.225 of 2013 in O.S.No.121 of 2013 on the file of the Sub Court, Veda sandur.

For Petitioner : Mr.H.Lakshmi Shankar
For Respondent No.1 : No appearance
For Respondent No.2 : No such address

ORDER

The second defendant in O.S.No.121 of 2013 on the file of the Sub Court, Veda sandur is the revision petitioner herein. It is a suit for specific performance. The revision petitioner filed I.A.No.225 of 2013 for rejection of plaint. By order dated 21.11.2015, the said IA was dismissed. Questioning the same, this Civil Revision Petition has been filed.

2. Though the plaintiff/first respondent herein has entered appearance through counsel there is no representation on his behalf.

3. The learned counsel for the petitioner took me through the plaint averments. The plaintiff relies on the suit agreement dated 24.11.2003. The learned counsel submitted that though in the original agreement, the revision petitioner as well as his father Perumal affixed their signatures, in the endorsement said to have been made later, the revision petitioner has not affixed his signature. In fact, the revision petitioner would characterise the said endorsement as a fabrication for the purpose of getting extension of time. Even in the plaint averments, it is admitted that the revision petitioner could not be contacted. The limitation for filing a suit for specific performance is three years. The suit was filed on 07.01.2008. In this case, the



agreement is dated 24.11.2003. The so called endorsement to which the revision petitioner is not a party is on 04.10.2004. Therefore, looked at from any angle, the suit is clearly time barred. Allowing such a suit to be prosecuted would only consume judicial time.

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4. Therefore, this Court has no hesitation to strike the plaint off the file of the Court. But then, interest of justice must always be served. The revision petitioner admits that a sum of Rs.1,54,000/- was received by the petitioner and his father when the suit agreement was signed. Therefore, the revision petitioner comes forward to deposit the said amount of Rs.1,54,000/- to the credit of O.S.No.225 of 2013 on the file of the Sub Court, Veda sandur. He has no objection for the plaintiff to withdraw the said amount.

5. The revision petitioner shall deposit the said amount within a period of eight weeks from the date of receipt of a copy of this order. If the deposit is not so made, the order in this Civil Revision Petition would stand automatically recalled and this Civil Revision Petition would be dismissed. Subject to this direction, this Civil Revision Petition stands allowed. No Costs.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The Sub Judge,
Veda sandur.
2. The Section Officer, (2 copies)
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.H.Lakshmi Shankar, Advocate Sr.No.86285

PJL

VB/SV/SAR2/19.11.2018/2P/5C

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