

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2019

CORAM

THE HONOURABLE MR.JUSTICE M.S. RAMESH

C.R.P. (PD) No. 551 of 2015
and
M.P. No. 1 of 2015

Thirugnanasambandan ...Petitioner

Vs.

P.Kaliaperumal Chettiar ... Respondent

Prayer : Petition filed under Article 227 of the Constitution of India, praying to strike off the plaint in O.S. 241/2014 on the file of the Principal subordinate Judge, Cuddalore and thereby allow the revision.

For Petitioner : Mr.N.Suresh

For Respondent : Mr.K.A.Ravindran

ORDER

The only ground on which the Petitioner seeks to get the plaint filed by the Respondent herein rejected is that the present suit in O.S. No. 241 of 2014 is a re-litigation, which amounts to abuse of process of law. I am unable to accept such a ground for the simple reason that the present suit in O.S. No. 241 of 2014 has been filed on a cause of action based on a sale agreement dated 02.06.2014, whereas the earlier suit in O.S. No. 2 of 2005 was filed for specific performance of sale agreement dated 19.09.1992. It is

settled preposition of law that when the defendant seeks for rejection of
 plaint, the plaint averments alone must be looked into for the purpose of
 coming to the conclusion that there was no cause of action. Since in the
 instant case, the cause of action for the suit seeking for specific
 performance of the sale agreement arose on 02.06.2014, all antecedents
 prior to 02.06.2014 cannot be looked into for the purpose of rejecting the
 plaint. Since the averments in the plaint reveals that the respondent herein
 has a cause of action to maintain the suit, it cannot be termed as
 re-litigation and will not amount to abuse of process of law. Hence, I do not
 find any merits in the present civil revision petition and the same stands
 dismissed. Consequently, connected miscellaneous petition is closed. No
 costs.

सत्यमेव जयते

09.01.2019

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Index : Yes/No

Internet : Yes/No

Speaking /Non-speaking order

To

M.S.RAMESH, J.

may a



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