

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **22.07.2019**

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(PD)No.2343 of 2019

Robin : Petitioner
Vs.

K.Esawaran : Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the fair and decreetal order in I.A.No.21 of 2017 in O.S.No.30 of 2016, dated 27.03.2019 by the learned District Judge, Udthagamandalam, Nilgris.

For Petitioner : M/s.P.Lavanya

ORDER

The revision petitioner is the second defendant in the suit in O.S.No.30 of 2016 filed by the respondent/plaintiff for recovery of money. The revision petitioner filed a petition under Order 7 Rule 11(a) of the Code of Civil Procedure, to reject the plaint and the same was dismissed by the Trial Court, against which, the present Civil Revision Petition has been preferred.

2. Heard the learned counsel appearing for the revision petitioner.

3. From the perusal of the plaint, it is seen that there are averments

with regard to the transaction between the plaintiff and the defendants, application before the Debts Recovery Tribunal for recovering the debt and the sale of property by public auction, etc. The property sold was owned by the plaintiff himself, who stood as a guarantor to the defendants. Even, in the affidavit filed in support of the petition to reject the plaint, there are averments affirming the transaction between the plaintiff and the defendants and that repayments were made by the revision petitioner himself.

4. It is well settled that for rejection of plaint, the averments made in the plaint are germane for consideration. As such, cause of action is based on certain financial dealings between the parties, as evident by the Debts Recovery proceedings and public auction pleaded therein. Thus, the plaint discloses cause of action. The matter can be decided only after elaborate trial. Therefore, the finding of the Trial Court that the disputed facts raised by the revision petitioner can be ascertained only at the time of trial and it is premature to reject the plaint, is based on sound reasons. The finding of the Trial Court in dismissing the petition for rejection of plaint does not warrant any interference. Thus, the Civil Revision Petition merits no consideration and accordingly, the same stands dismissed. No costs.

22.07.2019

Index:Yes/No

Internet: Yes/No

SML/bkn

To

The District Court,
Udhagamandalam,
Nilgiris.

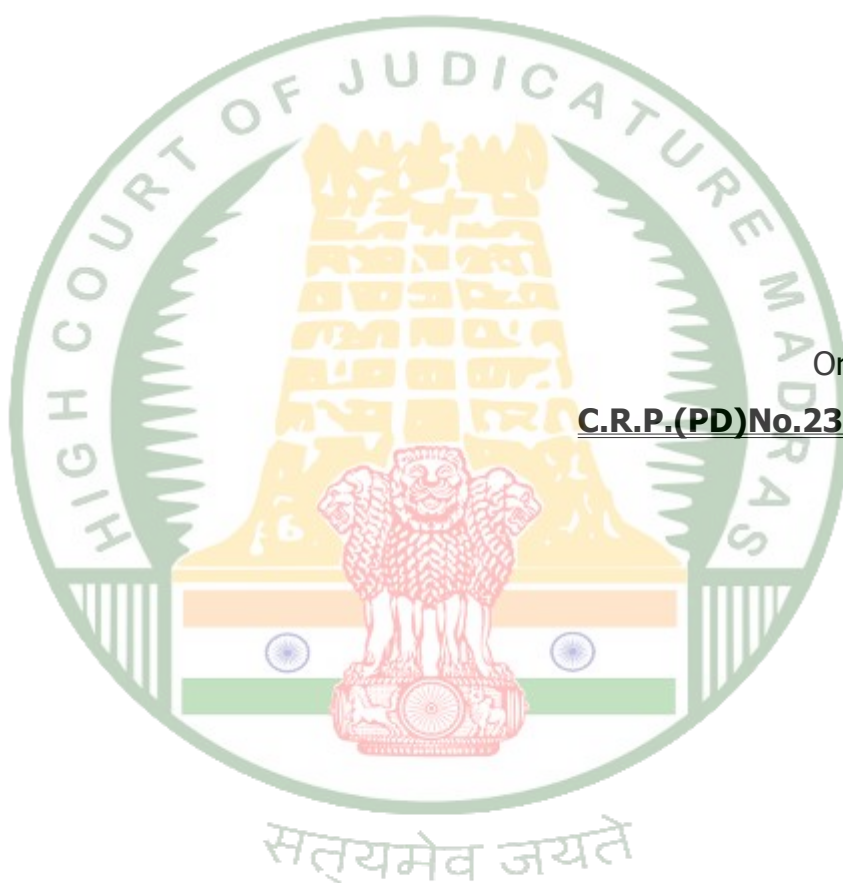


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CRP (PD) No.2343 of 2019

M.GOVINDARAJ, J.

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Order made in

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