

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2019

CORAM:

THE HONOURABLE Mr.JUSTICE R.SURESH KUMAR

C.R.P.(NPD)No.2588 of 2019

S.Lenin

... Petitioner

Vs.

1.K.Angammal
2.P.Karthikeyan

... Respondents

Prayer: Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 11.07.2019 passed in O.S.S.R.No.6678 of 2019 on the file of Principal District Munsif Court, Alandur consequently, direct the Registry of Munsif Court, Alandur to take back the plaint in O.S.S.R.No.6678 of 2019 on file and number the same.

For Petitioner

: Mr.G.V.Sridharan

सत्यमेव जयते
ORDER

This civil revision petition has been filed against the order dated 11.07.2019 passed by the Principal District Munsif at Alandur in Unnumbered O.S.S.R.No.6678 of 2019.

2.In the Court below, the petitioner has filed the said suit seeking for a permanent injunction against the defendants/respondents herein and has sought for the following prayer:

"The plaintiff therefore prays before this Hon'ble Court for a judgment and decree as follows:

a)The relief of permanent injunction restraining, the defendants, their men, agents, servants, representatives or anyone acting on their behalf from in any way harassing/coercing the plaintiff for foisting a false criminal case as against the plaintiff under the guise of collecting the return of sale consideration with interest except by following due process of law.

b)To direct the defendant to pay the cost of the suit."

3.Having considered the same, the learned Judge, in the impugned order, has expressed the view that, there has been no cause of action arose for filing the suit and moreover, under Section 55 of the Transfer of Property Act, certain rights and liabilities of buyer and seller have been stated, whereby, the seller's liability, as enumerated therein, cannot be given a go by and therefore, the defendants, who are the purchasers of the property from the plaintiff if at all seek any

information in respect of the property concerned, it is a duty of the seller i.e., the plaintiff to give such information within the meaning of Section 55 of the Transfer of Property Act. The learned Judge also has stated in the impugned order that, the suit cannot be filed on presumption and assumption and there was no cause of action for filing the suit, hence, the same can be rejected by invoking Order VII, Rule 11(a) of C.P.C. and the same was accordingly rejected as unnumbered suit, through the impugned order.

4.I have heard the learned counsel appearing for the petitioner during the last hearing and after having gone through the materials placed before this Court, it was found out that the prayer sought for in the suit is seeking injunction against the respondents even against filing any criminal complaint at the behest of the defendants. Therefore, this Court had raised an issue that such omnibus prayer cannot be asked for, as it is the right of every citizen to approach the Court of law especially under the Criminal law by setting the Criminal Law in motion by filing a complaint to the Law Enforcing Agency against any person and if at all any cognizable offence is made out, it is for the Investigating Agency to take cognizance of the case and to proceed in accordance with the Criminal law and that right of any

individual much less the defendants cannot be prohibited or enjoined by a Court of law and therefore, since the prayer sought for in the suit i.e., the plaint filed by the revision petitioner before the Court below, is having such a prayer, the same cannot be accepted apart from the reason independently given by the lower Court on the cause of action.

5.In order to rectify the same, the learned counsel agreed to file an affidavit to amend the prayer in the suit itself. Accordingly, an affidavit has been filed by the petitioner wherein he has stated the following:

"3.I further states that in the above CRP came up before this Hon'ble court and this Hon'ble Court was pleased to direct me file a better affidavit by restricting my prayer in the plaint in O.S.S.R.No.6678 of 2019 as follows:

"for the relief of permanent injunction restraining the defendants, their men, agents, servants, representatives or anyone acting on their behalf from in anyway harassing/coercing the plaintiff under the guise of collecting the return of sale consideration with interest except by following due process of law."

instead of

"for the relief of permanent injunction restraining, the defendants, their men, agents, servants, representatives or anyone acting on their behalf from in anyway

harassing/coercing the plaintiff for foisting a false criminal case as against the plaintiff under the guise of collecting the return of sale consideration with interest except by following due process of law."

4.I further states that I am restricting my prayer in the plaint in O.S.S.R.No.6678 of 2019 as stated above as directed by this Hon'ble Court. Hence I am filing this affidavit to carve leave of this Hon'ble Court to accept this affidavit and by passing necessary orders in the above CRP and thus render justice."

6.Insofar as the cause of action paragraph in the plaint is concerned, he has stated the following:

"The plaintiff submits that while the matter was so on 10.06.2019 the Inspector of Police L & O Pallavaram called the plaintiff to the Police Station on the same defendants wilt help of the police authorities threaten the plaintiff if the plaintiff has to be return the sale consideration with interest within month of June 2019. Else they will booked the criminal case as against the plaintiff. The plaintiff apprehend endanger in the hands of the defendants may at any time, they are in influential persons they demanded un-imaginary amount from the plaintiff. On the legal advise the plaintiff has no other alternative except to file this suit for permanent injunction restraining the

defendants, their men, agents, servants or any one act in any way harassing/coercing for foisting a false criminal case as against the plaintiff under the guise of collecting the return of sale consideration with interest except by following due process of law. Hence, the suit."

7.On perusal of these materials, this Court is of the view that, if at all the defendants in the suit, who are the respondents herein, coerce the plaintiff unknown to the established legal procedure or without due process of law, on that pretext, the plaintiff can seek remedy before the Civil Court. But at the same time, the right of the defendant to take criminal action against the plaintiff by setting Criminal Law in motion on giving a complaint to that effect, in the manner known to Criminal law, cannot be curtailed.

8.In that view of the matter, if the plaintiff files an amended plaint with necessary alteration in the cause of action paragraph and also the prayer paragraph as has been stated in the affidavit filed before this Court, as extracted herein above, then the issue can once again be reconsidered by the Court below and if the Court below finds that the plaint can be entertained, the necessary orders to that effect can be passed and it can be proceeded in accordance with law.

9.In that view of the matter, the civil revision petition is disposed of, with the following order:

That the matter is remitted back to the Court below with a direction to the revision petitioner to file amended plaint copy as has been indicated above and once an amended plaint copy is filed with amended prayer portion to the satisfaction of the Court below, the lower Court can take into account such amended plaint and if it is to the satisfaction of the Court below, that plaint can be entertained, necessary orders to that effect can be passed and it can be proceeded in accordance with law.

10.With this observation, this Civil Revision Petition is disposed of. No costs.

12.09.2019

Note: Issue order copy on 16.09.2019

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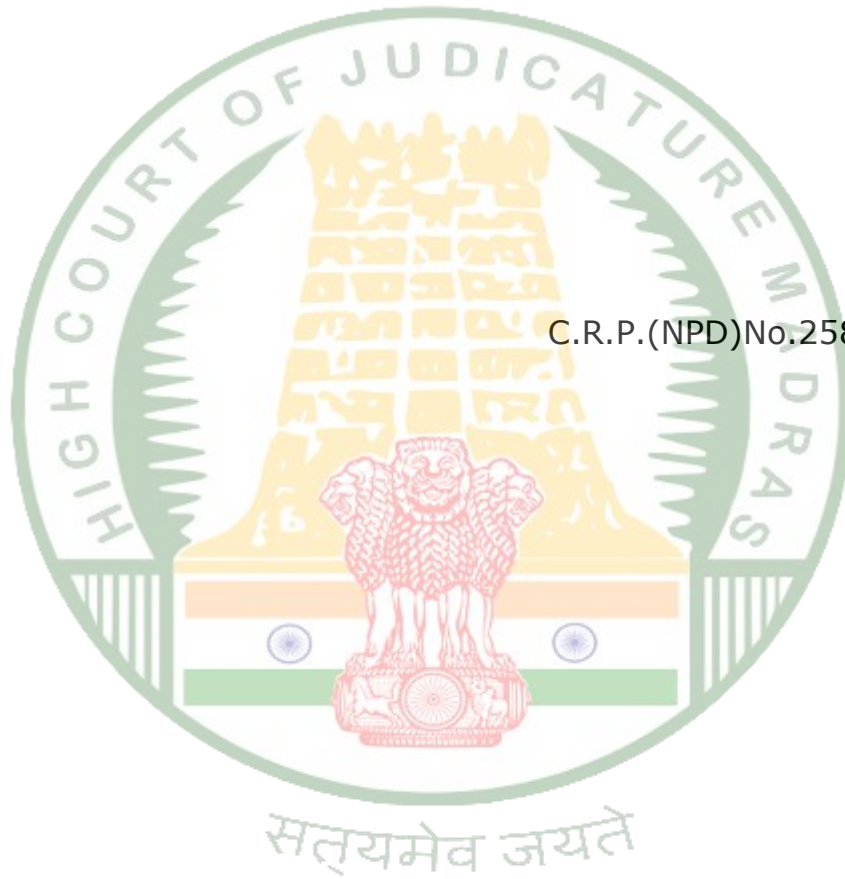
To
The Principal District Munsif Court,
Alandur.

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R.SURESH KUMAR, J.

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