

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2019

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

C.R.P.No.3588 of 2019
and C.M.P.No.23493 of 2019

P.Vivekanandan

... Petitioner

-Vs-

A.Easwari

... Respondent

Prayer : Civil Revision Petition under Article 227 of the Constitution of India against the fair and decreetal order dated 28.06.2019 passed in I.A.No.490 of 2018 in O.S.No.89 of 2018 on the file of the learned 1st Additional District Judge, Tiruppur.

For Petitioner : Mr.S.Kingston Jerold

O R D E R

This revision has been filed as against the fair and decreetal order dated 28.06.2019 passed in I.A.No.490 of 2018 in O.S.No.89 of 2018 on the file of the learned 1st Additional District Judge, Tiruppur.

2. Before the trial Court, the revision petitioner was the defendant against whom, the respondent / plaintiff filed a suit for specific performance. In the said suit, the present application has been filed by the revision petitioner / defendant to reject the plaint on the ground that there is no cause of action. Since the said application has been rejected through the impugned order by the Court below, aggrieved by the same, the present Civil Revision Petition has been filed.

3. Heard the learned counsel for the petitioner, who would submit that, no doubt it is a suit for specific performance and the stand of the revision petitioner / defendant even now is that the defendant was always ready and willing to execute the sale deed, provided the remaining sale consideration as agreed between the parties is paid and without paying the same since the plaintiff wanted to execute the sale deed, there seems to have been some quarrel and in that circumstances, the suit has been filed, which triggered the revision petitioner / defendant to file the application under Order VII Rule 11(a) of CPC to reject the plaint.

4. I have considered the said submissions made by the learned counsel for the petitioner and also perused the materials placed before this Court.

5. If it is admittedly a suit for specific performance pursuant to the sale agreement, which is admitted by both the parties, there could be no much quarrel between the parties. If the revision petitioner / defendant is ready and willing to deliver possession, he can very well file a memo before the Court below and in that case, it is for the trial Court to take up the matter and decide accordingly and in this regard, it is also open to the revision petitioner to clarify in the memo that the remaining sale consideration has not been paid and it could be paid by the plaintiff / respondent.

6. Therefore, in the circumstances, this Court is of the considered opinion that, there is absolutely no ground to invoke Order VII Rule 11(a) of CPC to reject the plaint on the ground that there is no cause of action. If the parties come forward to settle the matter between them amicably, it is for them to settle the same and for the said purpose Section 89 of C.P.C., can be invoked and therefore that possibility also can be explored by the revision petitioner.

7. In that view of the matter, this Court is of the view that the impugned order does not require any interference. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

KST

To

The 1st Additional District Judge, Tiruppur.
Copy to
The Section officer
VR Section
High Court, Madras 104.

+1 CC to Mr.S.Kingston Jerold, Advocate sr 92423.

C.R.P. No.3588 of 2019

MG(CO)

SP(06/12/2019)