



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.10.2019

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (PD) (MD)No.2274 of 2011

and

M.P(MD) No.1 of 2011

K.Ponramalingam

... Petitioner/Defendant

Vs.

Sivamani

... Respondent/Plaintiff

PRAYER:- Civil Revision Petition filed under Article 227 of Constitution of India, to struck off the plaint in O.S.No.346 of 2010 on the file of Sub Court, Palani.

For Petitioner : Mr.C.Sundaravadivel

For Respondent : Mr.S.R.Sureshkumar

ORDER

The short point involved in the above civil revision petition which has been filed to strike off the plaint in O.S.No.346 of 2010 on the file of Sub Court, Palani, is whether the suit filed for specific performance on the basis of un-registered agreement of sale dated 20.03.2008 which contains a recital that possession has been handed over, can be maintained, since the deed is not registered. The defendant has directly come by way of an revision invoking the superintending jurisdiction of this Court under Article 227 of Constitution of India. The petitioner has a remedy before the trial Court in the form of petition under Order 7 Rule 11 of the Code of Civil Procedure and without exhausting that remedy the petitioner/defendant has straight away come to this Court.

2.This Court is of the opinion that the remedy available to the petitioner is only before the Sub Court, Palani, invoking the provision of Order 7 Rule 11 of the Code of Civil Procedure. Hence, this Civil Revision Petition is dismissed. The petitioner is directed to work out his remedy before the Sub Court, Palani.

3.After the arguments, the learned counsel for the petitioner would submit that the written statement has already been filed and therefore, the Court below may be directed to dispose of the suit within a time frame. While dismissing the civil revision petition, this Court directs the learned Subordinate Judge, Palani, shall



dispose of the suit in O.S.No.346 of 2010 within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

To

The Subordinate Judge,
Palani.

+1 CC to Mr.S.R.SURESH KUMAR, Advocate (SR-93216[F] dated 21/10/2019)

+1 CC to Mr.C.SUNDARAVADIVEL, Advocate (SR-93370[F] dated 21/10/2019)

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