



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.03.2019

WEB COPY

CORAM :

THE HONOURABLE MRS.JUSTICE **S.RAMATHILAGAM**

CRP (MD) No.532 of 2019
and
CMP. (MD) No.2640 of 2019

R.Ramachandran ... Petitioner/Respondent/Defendant

vs.

1.G.L.Mohammed Ibrahim
2.L.N.Hakkim Shah

... Respondents/Petitioners/Plaintiffs

PRAYER:- Civil Revision Petition filed the under Article 227 of the Constitution of India, to set aside the order of the learned Additional District Judge, Dindigul dated 13.11.2018 allowing the I.A.No.67 of 2018 in O.S.No.79 of 2017.

For Petitioner : Mr.R.Ramadurai

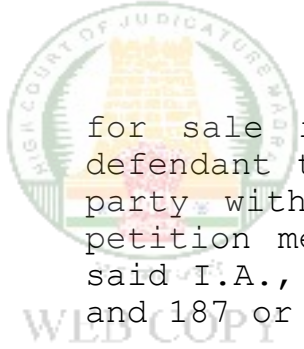
ORDER

This Civil Revision Petition has been filed to set aside the order dated 13.11.2018 passed by the learned Additional District Judge, Dindigul in I.A.No.67 of 2018 in O.S.No.79 of 2017.

2.For the sake of convenience, the parties will be referred to as per their rank before the trial Court.

3.I.A.No.67 of 2018 was filed by the plaintiffs, who have stated that both the plaintiffs and the defendant have entered into the memorandum of understanding for a sale consideration of Rs.99,00,000/- of the petition mentioned properties and the plaintiffs have also paid a sum of Rs.65,07,296/- as an advance to the defendant for the said property and the plaintiffs were always ready and willing to perform their contract as per the terms that is made in the sale agreement, whereas, the defendant never acted in good will and hence, the plaintiffs have preferred the initial proceedings before the District Crime Branch, Dindigul. Subsequently, the plaintiffs have also issued the legal notice and in spite of that the defendant refused to execute the sale deed.

4.It is the grievance of the plaintiffs that the plaintiffs filed a suit in O.S.No.79 of 2017 to refund the advance with interest paid by the plaintiffs. The memorandum of understanding



for sale is an unregistered one and hence, it is easy for the defendant to transfer the petition mentioned property to some third party without mentioning the charge of the plaintiffs over the petition mentioned property. Hence, the plaintiffs have filed the said I.A., to direct the defendant to furnish security for Rs.90,84 and 187 or otherwise attach the petition mentioned property.

5. In the written statement, the defendant contended that he has admitted the execution of sale agreement dated 06.01.2014 and he has received a sum of Rs.46,58,006/- as advance from the plaintiffs not a sum of Rs.65,07,296/-. Further, he contended that the time stipulated in the sale agreement was lapsed on 05.05.2014. It is for the plaintiffs, who have not come forward for registering the sale deed and caused the delay of 15 months and further as per the terms of the sale agreement, the plaintiffs have not paid the loan amount towards the Repco Bank.

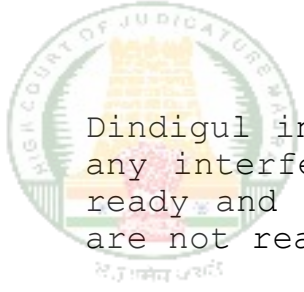
6. After considering the contention raised by both the parties and verifying all the documents, the trial Court has given a finding that the plaintiffs have also settled a sum of Rs.14,00,000/- to the persons, who were in the said suit. Hence, the plaintiffs have paid huge amount and in spite of that the defendant is trying to sell the property to some other third party and hence, the necessity arises for the plaintiffs to file a petition for attachment of the petition mentioned property.

7. Further, it is observed that there is some difference in the amount paid by the plaintiffs as advance. However, based on the receipts that the plaintiffs have paid some amount towards Repco Bank and the apprehension that was created by the defendant by way of selling the property to some other third party and hence, the trial Court ordered to attach the petition mentioned property, against which, the present Civil Revision Petition has been filed by the defendant.

8. Heard the learned counsel for the petitioner herein/defendant.

9. The defendant contended that the delay is caused by the plaintiffs and even after 15 months they have not come forward for execution of the sale deed and now, they are ready and willing to execute the sale deed. Further, the plaintiffs have not complied with the terms that was entered into the sale agreement and they have not paid the entire amount towards Repco Bank and only Rs.2,00,000/- was paid by them.

10. In this aspect, the trial Court discussed that since the receipts relating to the payment made towards Repco Bank neither the signature of the plaintiffs nor the signature of the defendant is found. Hence, the said facts of payment will be very much proved at the time of trial by examining the parties and hence, the order dated 13.11.2018 passed by the learned Additional District Judge,



Dindigul in I.A.No.67 of 2018 in O.S.No.79 of 2017 does not require any interference of this Court since the defendant says that he is ready and willing to perform the contract, whereas, the plaintiffs are not ready and willing to refund the amount.

11. This Civil Revision Petition is dismissed with the above observation. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar(CS)

To

The Additional District Judge,
Dindigul.

CRP(MD) No.532 of 2019
19.03.2019

mm

PK/15.04.2019 : 3P/2C