



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE: 28.11.2019

CORAM

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.R.P. (NPD) (MD) .No.439 of 2019

and

C.M.P. (MD) .No.2257 of 2019

A. Joseph

... Petitioner

-Vs-

A. Muthuraj

... Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code against the fair and decreetal order dated 20.06.2017 made in I.A.No.819 of 2016 in O.S.No.293 of 2014 on the file of the Principal District Munsif Court, Dindigul District.

For Petitioner : Mr.A.Arockiam
For Respondent : Mr.A.Hariharan

O R D E R

The civil revision petition has been filed challenging the order passed by the Principal District Munsif Court, Dindigul District in I.A.No.819 of 2016 in O.S.No.293 of 2014, dated 20.06.2017.

2. The petitioner is the defendant and the respondent is the plaintiff in O.S.No.293 of 2014. The respondent has filed the above suit for specific performance and in the suit, he prayed for alternative prayer of returning the amount. The suit was decreed ex-parte on 28.04.2015. The revision petitioner/defendant has filed an application in I.A.No.819 of 2016 for condoning the delay of 552 days in preferring the petition to set aside the ex-parte decree passed by the Court below, dated 28.04.2015. But the Court below has dismissed the application. Challenging the same, the present civil revision petition has been filed.

3. When the matter is taken up for hearing today, the learned counsel appearing for the revision petitioner/defendant produced the Demand Draft for a sum of Rs.26,520/- as directed by this Court, dated 18.11.2019 and the same is handed over to the learned counsel for the respondent. Further, he would contend that the petitioner also paid by way of two Demand Drafts a sum of Rs.1,15,000/- on 18.11.2019 and the same was recorded in the order passed by this Court, dated 18.11.2019. Further, the learned counsel appearing for the respondent/plaintiff submitted that the revision petitioner has already deposited a sum of Rs.17,000/- before the Court below. The learned counsel appearing for the revision petitioner/defendant has no objection for withdrawing the said amount along with interest. Therefore, as per the alternative prayer, entire amount has been



paid by the revision petitioner/defendant to the respondent/plaintiff.

4. In view of the settlement arrived at between the parties, this Court permits the respondent/plaintiff to withdraw a sum of Rs.17,000/- deposited by the revision petitioner/defendant before the Court below and nothing survives in the suit in O.S.No.293 of 2014 filed by the respondent/plaintiff and the same is liable to be dismissed. However, since the matter is pending before the Court below, both the parties are directed to file appropriate Memo to this effect before the Court below along with this order copy and the Court below is directed to dismiss the suit as well as the E.P. proceedings if any, as infructuous. The revision petitioner/defendant is permitted to take necessary steps to clear the encumbrance by removing the entries relating to the sale agreement and in such an event, the Sub Registrar shall take necessary steps.

5. With the above direction, the Civil Revision Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

akv

To

The Principal District Munsif,
Dindigul District.

+1 CC to M/s.A.HARIHARAN, Advocate (SR-102122[F] dated 28/11/2019)

C.R.P.NPD(MD) .No.439 of 2019

28.11.2019

SMA/17/12/19/2P/3C