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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2020

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

C.R.P.PD.No.201 of 2020

and

CMP.No.1111 of 2020

Subramani Chettiar(died)

1. S.Selvakumar

2. Dhanalakshmi

3. V.K.Rangaswamy

4. A. Devi

5. R. Gopalakrishnan

6. V. Lakshmi

7. V.K. Rangaswamy

... Petitioners/Defendant

Vs.

P. Parameswaran

... Respondent/Plaintiff

Prayer :- This Civil revision has been filed under 227 of the Constitution of India to set aside the fair and decreetal order dated 28.07.2017 made in I.A.No.92 of 2017 in O.S.No.5 of 2012 on the file of the III Additional District Court, Vellore at Tirupattur and allow the revision.

For petitioner : Mr. L. Abrar Mohamed Abdulllah

O R D E R

This Civil Revision Petition has been filed against the order dismissing the petitioners' application, to reject the plaint, filed under Order VII Rule 11 CPC.



2. The petitioners are defendants in the suit. The respondent/plaintiff filed a suit in O.S.No.5 of 2012 on the file of the III Additional District Court, Vellore @ Tirupathur, for specific performance seeking to execute a sale deed, pursuant to the sale agreement said to have entered into between the plaintiff and the defendants on 16.02.2007. Pending suit, the petitioners/ defendants filed an application to reject the plaint on the ground that, the respondent/plaintiff claiming to be an agreement holder to the suit schedule property, now sold the property in favour of the third party on 25.06.2007 itself. Hence, there is no cause of action for filing the suit. The trial Court, by an order dated 28.07.2017, dismissed the application holding that the plaint can be rejected only on the ground that the plaint does not disclose cause of action, that apart, based on the document filed by the defendants, the suit cannot be rejected. Now, challenging the same, the present revision has been filed.

3. Heard the learned counsel for the petitioners and perused the materials available on records carefully.

4. It is a suit for specific performance. The application to reject the plaint has been filed only on the ground that, the plaintiff an agreement holder to the suit schedule property sold the same in favour of a third party, the plaintiff has no right to sue and there is no cause of action for filing the suit. Hence, the petitioners want to reject the plaint. It is settled law that the plaint can be rejected if the plaint does not disclose the cause of action, or it is barred by any law including limitation. For rejecting the plaint, the averments made in the plaint alone germane, and contention of the defendants cannot be considered at this stage, whether the plaintiff sold the property, and he has any right to sue, are matters to be decided in trial. That apart, the petition has been filed when the suit is posted for cross examination of the DW1. Considering the above circumstances, the trial Court rightly dismissed the petition filed by the petitioners. I find no illegality or irregularity in the order passed by the Court below and I find no merit in the revision. However, the petitioners are at liberty to raise all those issues before the trial Court and any such issue is revised, the trial Court should consider those issues.

5. Accordingly, the Civil Revision Petition is dismissed. However, considering the fact that the suit is pending from the year 2012, the trial Court is directed to proceed with the trial and dispose the same within a period of three (3) months from the date of receipt of a copy of this order, after giving opportunity to both the parties, on merits and in accordance



with law. No costs.  
petition is closed.

Consequently, connected miscellaneous

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Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrp

To

The III Additional District Judge, Vellore at Tirupathur

+1cc to Mr I.Abrar md Abdullah, Advocate , Sr.No.10701

C.R.P.No.201 of 2020

EV (CO)  
GS (01/07/2020)