

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2020

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

**C.R.P.NPD.No.2291 of 2015
and
M.P.No.1 of 2015**

1. Saroja

2. Minor Sethuraman

3. Minor Jothi

... Petitioners

Vs.

Narasa Gounder (deceased)

1. Elumalai

2. Soundararaj

3. Suseela

... Respondents

Prayer :- This Civil revision has been filed under Article 227 of the Constitution of India to set-aside the fair and decreetal order dated 13.02.2015 made in I.A.No.1448 of 2014 in O.S.No.233 of 2011 on the file of the Principal District Munsif, Ulundurpet.

For petitioner : Mr. C. Munuswamy

ORDER

This Civil Revision Petition has been filed against the order dismissing the petitioners' application filed under Order 6 Rule 17 CPC to correct the plaint.

2. The petitioners/plaintiffs filed a suit in O.S.No.233 of 2011 on the file of the Principal District Munsif Court, Ulundurpet for specific performance to execute a sale deed pursuant to the Sale Agreement dated 25.08.2010 entered into between the plaintiffs and the first respondent/first defendant. Pending suit, the petitioners filed an application to delete the prayer for specific performance and that application has been dismissed. Now, challenging the same, the present Revision has been filed.

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

4. Originally the suit is filed for specific performance based on a sale agreement said to have been executed by the defendants on 25.08.2010. Pending suit, since the first defendant said to have executed a sale deed in favour of the petitioners/plaintiffs on 13.09.2011, the suit prayer sought in the suit has become infructuous and hence, the petitioners seek a declaration to declare their title over the suit schedule property based on the sale deed dated 13.09.2011. The trial Court, by an order dated 13.02.2015, dismissed the application holding that if the amendment is allowed, the nature of the suit and the cause of action will totally differ, which is not permissible under law and rightly held that when the petitioners filed the suit for specific performance, if at all, pending suit, sale deed is executed, and the

prayer sought for in the plaint has become infructuous, the petitioners can file necessary suit seeking new relief for new cause of action . I have gone through the materials. I find no illegality or irregularity in the order passed by the trial Court and I find no merit in the revision.

5. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

13.02.2020

mrp

Index : Yes/No

Internet : Yes/No

Speaking order/non speaking order

To

Principal District Munsif, Ulundurpet.

WEB COPY

V.BHARATHIDASAN, J.,

mrp



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