

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P (NPD). No.1402 of 2018 and
C.M.P.No.7534 of 2018

M. Kumaravel

... Petitioner

Vs.

1. S.Sampath

2. S.Kanchana

... Respondents

Prayer: The Civil Revision petition filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 08.12.2017 passed in I.A.No.121 of 2014 in O.S.No.12 of 2014 by the Additional Sub Court, Tindivanam and allow the same and reject the plaint.

For Petitioner : Mr.J.Karthikeyan

For Respondents : No appearance

ORDER

The defendant in O.S.No.12 of 2014, whose application seeking rejection of plaint filed under Order VII Rule XI of the Code of Civil

Procedure was dismissed, challenges the said order in this revision.

2. The suit was filed by the respondents/plaintiffs seeking to cancel the sale deed dated 13.04.2005 contending that they had borrowed monies from the defendant and in the guise of getting mortgage executed, the defendant had obtained the sale deed. The suit is in fact filed as a suit for redemption of mortgage in as much as prayer reads as directing the defendant to cancel the sale deed upon receipt of a sum of Rs.2,00,000/-. The plaintiffs have filed a suit contending that a fraud was played upon them in obtaining the sale deed dated 13.04.2005. The Trial Court had gone into the question and had concluded that the plaint cannot be rejected on this ground. The Trial Court had found that in as much as allegation of fraud has been made, the suit has to be decided only after trial and plaint cannot be rejected at the threshold of. Rejection of a plaint under Order VII Rule XI is an extraordinary remedy. The same cannot be resorted to when there are triable issues, particularly, based on allegations of fraud. I do not see any illegality or irregularity in the

conclusion of the Trial Court.

3. Therefore, I do not think that the order made in I.A.No.121 of 2014 warrants interference. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

rsi

Index: No
Speaking order

To

1. The Additional Subordinate Judge,
Tindivanam.

2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

29.07.2020

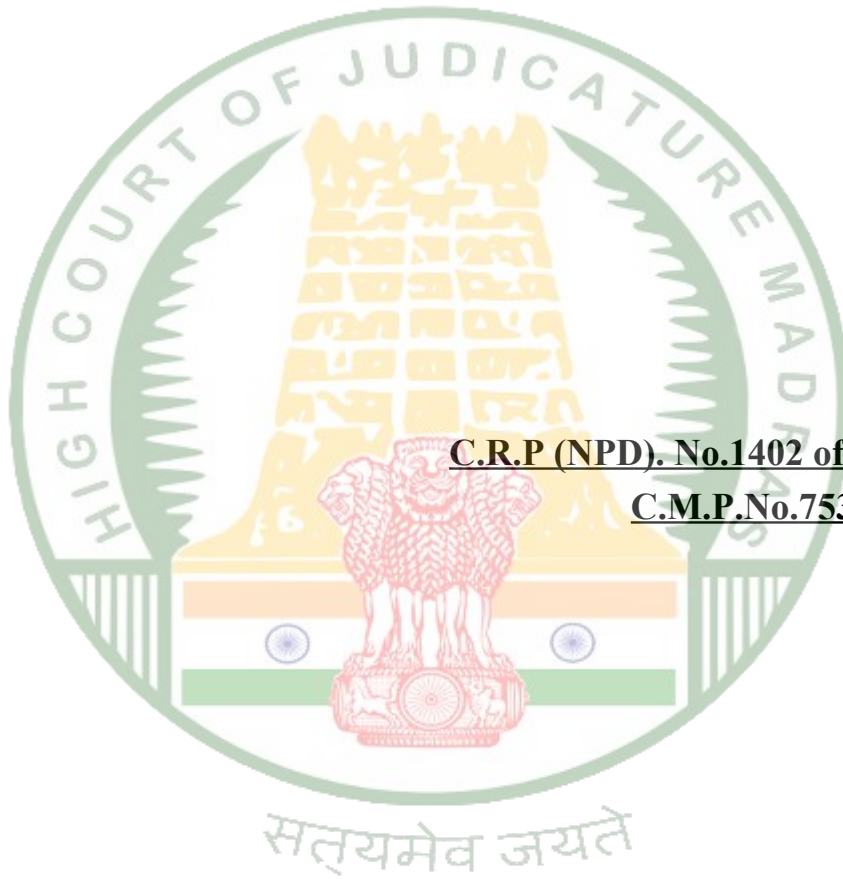


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R.SUBRAMANIAN, J.

rsi



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