

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.03.2020

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRP (PD) No.2223 of 2018 and
CMP No.13991 of 2018 and
CMP Np.26152 of 2019

P.Manjula ... Petitioner

Vs.

C.Sumathi ... Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 25.06.2018 passed in I.A.No.2670 of 2018 in O.S.No.6242 of 2016 by the Principal Judge, City Civil Court, Chennai.

For Petitioner : Mr.G.Jermiah
For Respondent : Mrs. A.L.Gandhimathi

O R D E R

This Civil Revision Petition has been filed against the fair and decreetal order dated 25.06.2018 passed in I.A.No.2670 of 2018 in O.S.No.6242 of 2016 by the Principal Judge, City Civil Court, Chennai.

2. The petitioner is the defendant in the above said suit, whereas the respondent is the plaintiff. The main suit has been filed before the Trial Court for specific performance to execute the sale deed in favour of the plaintiff, based on the sale agreement dated 18.12.2014 entered into between the plaintiff and the defendant. Pending suit, the petitioner/ defendant had filed an application in I.A.No.2670 of 2018 under Order VII Rule 11 of the Code of Civil Procedure to reject the plaint. The above said application was dismissed by the Trial court vide order dated 25.06.2018, Against which, this civil revision petition has been filed.

3. The learned counsel appearing for the petitioner/defendant submitted that the suit has been filed by the respondent/plaintiff for specific performance based on the sale agreement dated 18.11.2014, however, in the sale agreement

it has been described that the petitioner/defendant is a purchaser and the respondent/plaintiff is a vendor and hence, there is no cause of action for filing the suit on the basis of the sale agreement, as the agreement could not be specifically enforced. According to him, the trial court has erroneously dismissed the application and hence the same is liable to be set aside.

4. The learned counsel appearing for the respondent/plaintiff submitted that in the sale agreement dated 18.12.2014, at the last page, it has been specifically mentioned that the petitioner is the first party and the respondent namely Sumathi is the 2nd party. According to him, it is only a typographical error occurred in the sale agreement and on that ground only, the plaint cannot be rejected.

5. I have considered the submissions made by the learned counsel appearing for the petitioner as well as the respondent. I have also perused the materials on record.

6. The petitioner/defendant has filed an application in I.A.No.2670 of 2018 in O.S.No.6242 of 2016 before the Trial court to reject the plaint on the ground that, in the sale agreement, it has been mentioned that the petitioner is the purchaser and the respondent is the vendor contrary to the fact that the petitioner is the vendor and the respondent is the purchaser and hence, the said application is maintainable and that there is no cause of action for filing the suit.

7. In the sale agreement, the respondent/plaintiff is shown as the first party and the petitioner/defendant is shown as the 2nd party and both the parties signed the last page of the sale agreement. All the grounds raised by the respondent/plaintiff in the plaint and the petitioner/defendant in the written statement shall be decided only after full fledged trial before the trial court. The learned counsel appearing for the respondent/plaintiff also submitted that in the suit, issues were framed and the case was posted for evidence on 07.03.2020. At this juncture, the contentions raised by the petitioner/defendant to reject the plaint cannot be accepted. Hence, there is no merits in this civil revision petition and the orders passed by the trial court does not warrant any interference by this court.

8. Accordingly, this civil revision petition is

dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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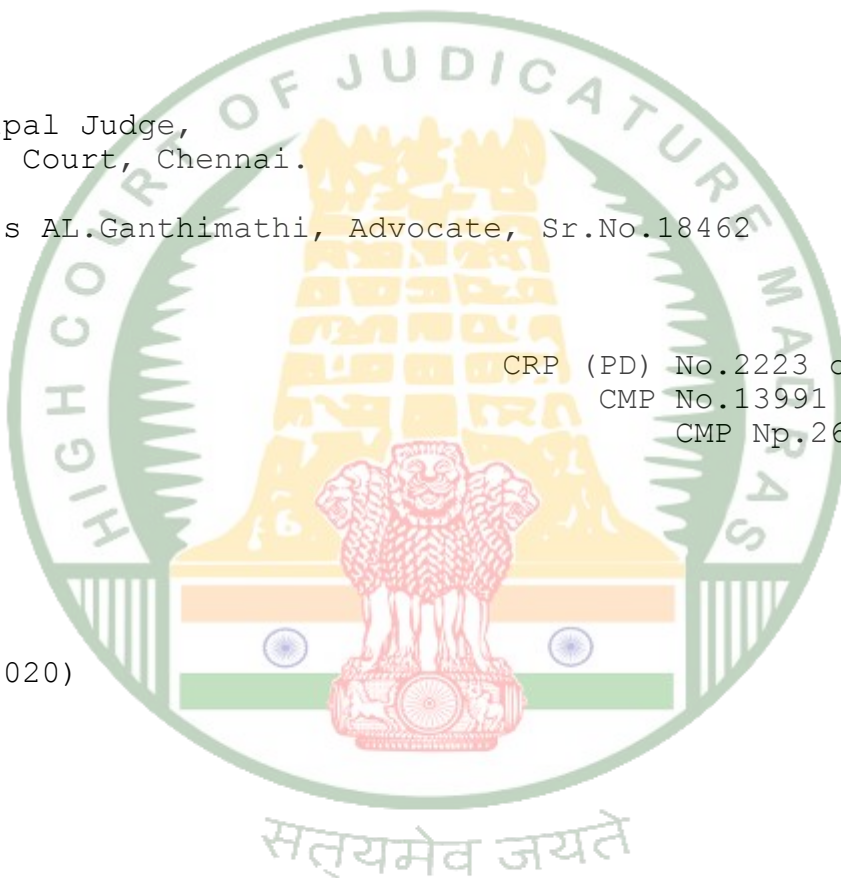
To

The Principal Judge,
City Civil Court, Chennai.

+1cc to M/s AL.Ganthimathi, Advocate, Sr.No.18462

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