

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

**C.R.P.(P.D).Nos.1342 and 1348 of 2019
& C.M.P.No.8779 of 2019**

S.M.Murugan

...Petitioner in
both the C.R.P.'s

Vs

A.Palanivel

...Respondent in
both the C.R.P.'s

Common Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the orders passed in I.A.Nos.2 and 3 of 2019 in O.S.No.150 of 2014 decree dated 06.03.2019 on the file of the Additional District (Fast Track) Court, Mettur.

In both the C.R.P.'s

For Petitioner : Mr.D.Lakshmipathy

For Respondent : Mr.Mahendra Naidu

COMMON ORDER

These Petitions have been filed to set aside the orders passed in I.A.Nos.2 of 2019 (to reopen the case to let defendant side evidence) and 3 of 2019 (to summon VAO, Mallikundam Village, for producing additional

documents) in O.S.No.150 of 2014 decree dated 06.03.2019 on the file of the Additional District (Fast Track) Court, Mettur.

2.Since both the Civil Revision Petitions are interconnected, arising from the same suit, common order is passed.

3.The respondent herein has filed the suit in O.S.No.150 of 2014 for specific performance.

4.Pending suit, the petitioner herein has preferred the I.A.Nos.2 and 3 of 2019 to reopen the defendant side evidence and to summon the witness for examination along with patta.

5.The trial Court, after giving due consideration for the arguments advanced by the learned counsel on either side dismissed both the applications on the ground that both the petitions are filed, nothing but to make a delay in the disposal of the suit. Further the status of the suit properties is not a question or issues in the suit.

6.The petitioner herein has preferred the present Civil Revision Petitions, on the orders made in I.A.Nos.2 and 3 of 2019 dated 06.03.2019.

7.The learned counsel for the petitioner submitted that the orders of the trial Court is contrary to law and unjust, for denying an opportunity to

the respondent to let further evidence and further submitted that the petitioner had a valid defence in defending the suit filed by the respondent herein for specific performance. To establish the defendant case, the witnesses has to be necessarily summoned. But the trial Court rejected the petitions and he further reiterated the other grounds raised in the grounds of revision petitions and thus pleaded to allow the revision petitions.

8.The learned counsel for the respondent supported the order of the trial Court and pleaded to dismiss the revision petitions as it has no merit.

9.Heard the learned counsel for the parties and perused the materials available on record.

10.The respondent herein has filed the suit against the defendant (revision petitioner) for specific performance of sale agreement dated 09.08.2011. According to the respondent, the sale consideration was Rs.12 lakhs and paid advance of Rs.10 lakhs. Sale has to be completed within one year. However, the respondent not executed the sale deed, so he filed the suit for specific performance. The revision petitioner filed the written statement by denying the sale agreement dated 09.08.2011. Further

contended that the respondent is a money lender. In the year 2011, the revision petitioner approached the respondent to lend money to meet his urgent expenses. The petitioner received a sum of Rs.7.5 lakhs on 09.08.2011 from the respondent, for that the respondent obtained his signature in two empty pro-notes and also obtained unfilled cheques bearing Nos.789631 to 789640 of Canara Bank along with Cheque Nos.789642 to 789649 of Canara Bank. Further, the revision petitioner borrowed a sum of Rs.1,50,000/- on 01.08.2012 from the respondent. Totally the petitioner borrowed a sum of Rs.9 lakhs from the respondent. The petitioner regularly repaid the interest till the month of February 2014, after that he was unable to pay the interest. In the circumstance, the petitioner received Advocate notice from the respondent as that he has executed the sale agreement dated 09.08.2011. For that the petitioner gave a reply and defended the suit. In the above said factual circumstance, summoning the VAO to produce patta and giving evidence with regard to the property will not help to decide the suit. The specific defence of the defendant/revision petitioner is that he had no intention in executing any sale agreement on 09.08.2011. Only he borrowed a loan from the respondent and did not executed any sale agreement. So it

has to be proved by the revision petitioner by letting legal evidence, for that purpose VAO need not be summoned to produce patta and other revenue documents with regard to the suit. For that purpose, the case ought not to be reopened. The trial Court dismissed both the petitions filed by the revision petitioner to reopen and summon the VAO to produce the document is not in error and there is no irregularity in the orders passed by the trial Court. Further, I find no merit in the revision petitions.

11.Hence both the Civil Revision Petitions are dismissed. No costs. Consequently connected miscellaneous petition is closed.

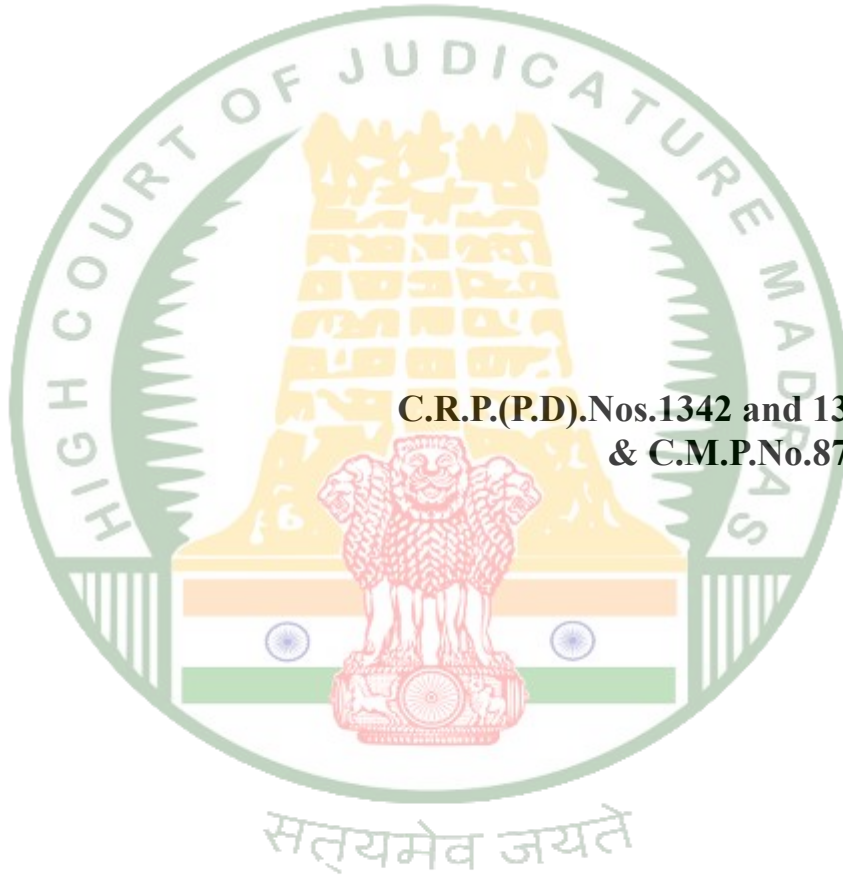
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Speaking Order: Yes/No
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V.SIVAGNANAM.J,

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