

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2020

CORAM:

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

C.R.P(PD).No.1163 of 2017

and

C.M.P.No.5549 of 2017

R.Pandian ... Petitioner

Vs.

Alamelu ... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Code of Civil Procedure, against the order dated 30.11.2016 passed in Unnumbered Suit SR No.4462 of 2016 on the file of the District Court, Chengalpattu.

For Petitioner : Mr.V.P.Raju

For Respondent : No appearance

ORDER

This Civil Revision Petition has been filed by the Plaintiff against the rejection of the plaint in unnumbered OS SR No. 4462 of 2016 on the file of the Principal District Judge, Chengalpattu

dated 30.11.2016.

2. The Petitioner herein had filed the suit for the relief of specific performance of the sale agreement and also for permanent injunction. The learned Principal District Judge, Chengalpattu, even before numbering the said suit, by the order dated 30.11.2016, had rejected the said plaint by invoking the provisions under Order 7 Rule 11(b) of CPC. Feeling aggrieved, the plaintiff has filed the present Civil Revision Petition.

3. At this juncture, it would be relevant to refer to Section 2(2) of the Code of Civil Procedure, which reads thus:

" (2) "decree" means the formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final. It shall be deemed to include the rejection of a plaint and the determination of any question within Section 144, but shall not include-

- (a) any adjudication from which an appeal lies as an appeal from an order, or
- (b) any order of dismissal for default.

Explanation: A decree is preliminary when further proceedings have to be taken before the

suit can be completely disposed of. It is final when such adjudication completely disposes of the suit. It may be partly preliminary and partly final.

4. A bare reading of the aforesaid provisions of law shows that a decree shall be deemed to include the rejection of a plaint also.

5. In such a case, the petitioner/plaintiff has to file a regular appeal against the said decree. Instead of filing appeal, he cannot file a Civil Revision Petition.

6. In the result, this Civil Revision Petition is dismissed. It is open to the Petitioner/Plaintiff to file an appeal against the rejection of the plaint in accordance with law. No costs. Consequently, connected Miscellaneous Petition is also closed.

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Internet : Yes/No
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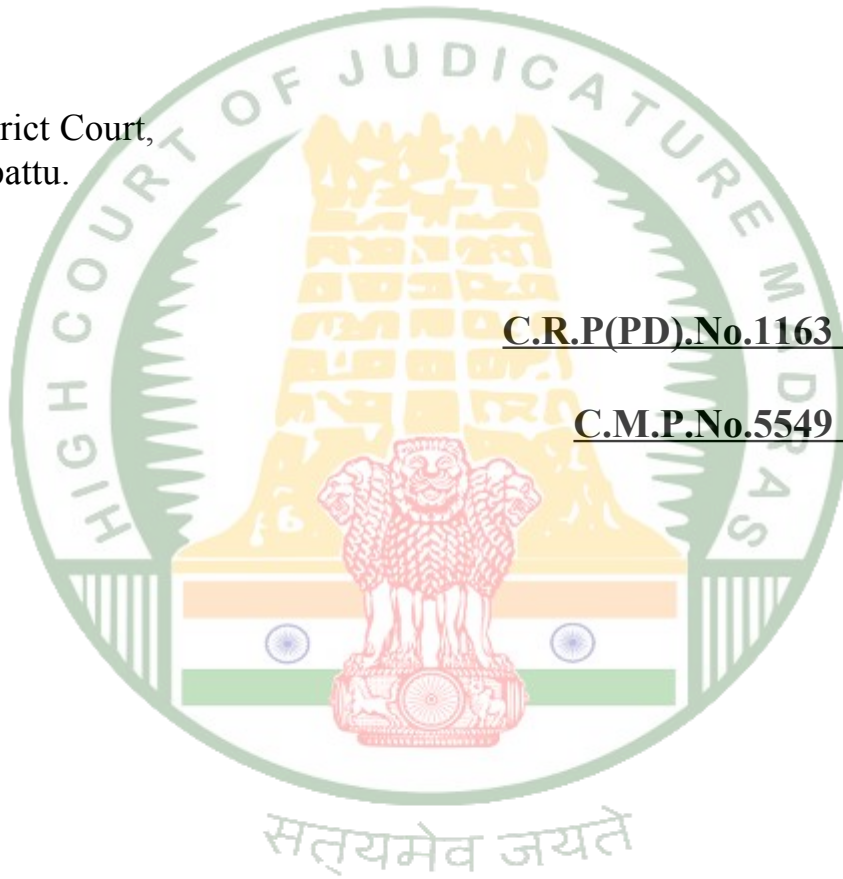
CRP (PD).No.1163 of 2017

P.RAJAMANICKAM.J.,

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To

The District Court,
Chengalpattu.



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