

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2020

CORAM:
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.R.P.(PD) No.3932 of 2017

Ravichandran

... Petitioner

VS.

1. Saroja
2. Govindasamy
3. Sathya

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India seeking to set aside the fair and decretal order dated 01.08.2017 made in I.A.No.113 of 2015 in O.S.No.77 of 2013 on the file of the Subordinate Court, Gingee.

For Petitioner : Ms.A.Sumathy

For Respondents : No appearance

ORDER

This Civil Revision Petition is filed seeking to set aside the fair and decretal order dated 01.08.2017 made in I.A.No.113 of 2015 in O.S.No.77 of 2013 on the file of the Subordinate Court, Gingee.

2. Though, notice has been served and names printed in the cause list, none has entered appearance on behalf of the Respondents.

3. The Court below has rejected the document vide Ex.A1 to be referred to the Sub-Collector, Tindivanam, for registration and also to fix

deficit stamp charges, on the ground that the said document has not been compulsorily registered in terms of the amended Registration Act, which came into force on 29.12.2012.

4. The Petitioner herein is the Plaintiff before the Court below. According to the Petitioner, he filed a Suit for specific performance seeking handing over of possession of the suit property to him, with an alternative prayer to refund the money to the tune of Rs.3,00,000/- (Rupees Three Lakhs only), which has been received as advance by the Respondents herein, together with interest.

5. Even assuming for the sake of argument that, the suit for specific performance is not maintainable, the Petitioner would be entitled to refund of the said sum of Rs.3,00,000/- together with interest. However, the same cannot be refunded, unless and otherwise the Sub-Collector, Tindivanam is directed to fix the deficit stamp charges.

6. As there is no objection on behalf of the Respondents, this Court is of the view that, no prejudice is going to be caused to the Respondents, if the document vide Ex.A1 is marked, in order to enable the parties to address other factual aspects before the Court below.

7. In view of the above, the order dated **01.08.2017** made in **I.A.No.113 of 2015 in O.S.No.77 of 2013 on the file of the Subordinate**

Court, Gingee, is set aside, with a direction to the learned Subordinate Judge to take Ex.A1 on file, after fixing of deficit stamp charges by the Sub-Collector, Tindivanam. It is made clear that, as the Petitioner herein is interested in refund of money and, as alternative remedy subsists, the veracity and genuineness of Ex.A1 can be gone into, while disposing of the main Suit.

The Civil Revision Petition is allowed accordingly. No costs. Consequently, connected C.M.P.No.18378 of 2017 is closed.

Index : Yes/No

(aeb)

To: The Subordinate Court, Gingee.

13.03.2020

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S.VAIDYANATHAN,J.

(aeb)



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