



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.08.2020

CORAM

THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

C.R.P.(PD)(MD)No.2854 of 2018

and

C.M.P.(MD)No.12382 of 2018

Manju Shree : Petitioner / Defendant

.. Vs ..

Bhagavathi Raj : Respondent / Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order made in I.A.No.84 of 2018 in O.S.No.115 of 2016 by the Additional District Court (Fast Track Court), Palani, dated 28.09.2018.

For Petitioner : Mr.D.Venkatesh

ORDER

This Civil Revision Petition is directed against the order passed by the learned Additional District Judge (Fast Track Court), Palani, in I.A.No.84 of 2018 in O.S.No.115 of 2016, dated 28.09.2018.

2.The respondent herein, as plaintiff, filed the suit in O.S.No.115 of 2016 on the file of the Additional District Court (Fast Track Court), Palani, for specific performance of agreement of sale, dated 07.09.2016. The suit is also for a consequential injunction restraining the defendant from alienating the suit property during the pendency of the suit. During the pendency of the suit, the revision petitioner/defendant has filed an application in I.A.No.84 of 2018 in O.S.No.115 of 2016, to reject the plaint on the ground that the respondent/plaintiff has admitted the execution of a pronote after receiving the consideration. However, the lower Court dismissed the said application, by order dated 28.09.2018. Aggrieved by the same, the present Civil Revision Petition is filed.

3.From the stand taken by the respondent/plaintiff in the reply statement and in the counter affidavit, the learned Counsel for the petitioner tried to project the case that the suit is filed without any cause of action. From the reading of plaint in O.S.No.115 of



2016, it is evident that the plaint discloses cause of action for filing a suit for specific performance based on an agreement of sale, dated 07.09.2016.

4.The admission or statement of respondent/plaintiff reveals about a collateral transaction is independent and the defendant cannot take advantage of some factual discrepancies for rejection of plaint, as Order VII Rule 11 CPC contemplates only four grounds for rejection of plaint. In this case, the plaint discloses a cause of action and none of other grounds enumerated under Order VII Rule 11 CPC is attracted in this case. Hence, the order of lower Court dismissing the application filed under Order VII Rule 11 CPC cannot be found fault with.

5.As a result, this Civil Revision Petition is dismissed and the order passed by the learned Additional District Judge (Fast Track Court), Palani, in I.A.No.84 of 2018 in O.S.No.115 of 2016, dated 28.09.2018, is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

The Additional District Judge (Fast Track Court),
Palani.

C.R.P.(PD)(MD)No.2854 of 2018

04.08.2020

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