

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 09.03.2021

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN, J.

C.R.P.(NPD)No.434 of 2021

D.Rajkumar
S/o.K.R.Damotharan

...Petitioner/Plaintiff

Mrs.S.Padma
W/o.Sivakumar

Vs

...Respondent/Defendant

PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code set aside the order passed by the learned District Munsif Judge, Tambaram in S.R.No.1333 of 2020 in un-numbered O.S. dated 05.12.2020.

For Petitioner : Mr.P.Chandramohan

O R D E R

The order dated 05.12.2020, passed by the learned District Munsif, Tambaram, in un-numbered O.S.in S.R.No. 1333/2020 is under challenge in this Civil Revision Petition.

The case in brief would run thus:

2. Revision Petitioner herein is the plaintiff in the un-numbered suit in O.S.SR.No 1333/2020. Originally, the revision petitioner herein had filed an unnumbered suit in on the file of the District Munsif Court, Tambaram, for the relief of permanent injunction restraining the defendant from disturbing the peaceful possession and enjoyment of the suit property; from entering in the suit property; not to construct any construction; and not to sale the suit property. According to the revision petitioner /plaintiff, the agreed market value of the suit property is Rs.64,06,950/-. It is stated that the revision petitioner had executed a sale deed in favour of the respondent /defendant for the market value of the suit property, i.e. Rs.34,06,950/-, as the respondent / defendant agreed to pay the balance sum of Rs.30,00,000/- immediately after the registration through cheques. According to the revision petitioner, the respondent/defendant failed to pay the aforesaid balance sum but for that, she issued two different cheques. Therefore, the sale deed was executed on 22.3.2019 for the value of Rs.34,06,950/. According to the revision petitioner/

plaintiff, when the cheques were presented for encashment, the same were returned with the endorsement "payment stopped by drawer". Therefore, the revision petitioner/plaintiff had sent a legal notice to the respondent/defendant asking to pay the remaining sale consideration. Since there was no replay, the petitioner filed a suit on the file of the District Munsif Court, Tambaram. The suit was rejected, when the same was presented for maintainability, by order dated 05.12.2020 on the ground that on the date of the execution of the sale deed itself, the revision petitioner/plaintiff conveyed the title and also the possession of the suit property to the respondent/defendant absolutely. Aggrieved over the same, the present revision petition came to be filed by the plaintiff.

3. The learned counsel for the petitioner submitted that both the parties have agreed a sum of Rs.64,06,950/- as sale consideration. The learned counsel further submitted that the trial Court has erred in coming to the conclusion that the sale consideration is Rs.34,06,950/-. According to the learned counsel, the trial Court has failed to consider the statement given by the revision petitioner that the respondent gave her consent willfully to the revision petitioner for the possession and enjoyment of the suit property till the remaining amount of Rs.30,00,000/- is fully paid. The learned counsel further submitted that only for the liability of the remaining sum, the respondent issued different cheques. According to the learned counsel, when the said cheques were deposited, the same were returned with the reason " payment stopped by the drawer". Therefore, the learned counsel prays for allowing the present revision petition.

4. Heard the learned counsel for the revision petitioner. Perused the materials available on record.

5. Admittedly the revision petitioner has filed a suit for permanent injunction in un-numbered O.S. in S.R.No.1333 of 2020 before the District Munsif, Tambaram. There is no dispute that the sale deed was executed by the plaintiff in favour of the defendant on 22.03.2019 for a sum of Rs.34,06,950/- before the Sub Registrar Office, Selaiyur. Though it is the contention of the revision petitioner that both the parties agreed a sum of Rs.64,06,950/- as sale consideration, the revision petitioner has not produced any documentary evidence to substantiate the said contention. As rightly pointed out the trial Court, a mere perusal of the sale deed executed by the revision petitioner/plaintiff in favour of the respondent/ defendant would clearly prove the fact that the sale consideration is Rs.34,06,950/- and the petitioner/plaintiff sold the property only for the market value and not less than that as contended by the revision petitioner. Further, it is very clear that on the date of execution of the sale deed itself, the revision petitioner/plaintiff conveyed the title as well as possession of

the suit property to the respondent/ defendant. Therefore, prima facie, as rightly pointed out by the trial Court, there is no cause of action arising out of the transaction. Further, there is no valid ground raised by the revision petitioner to allow this revision. The revision petition fails and the same is accordingly dismissed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

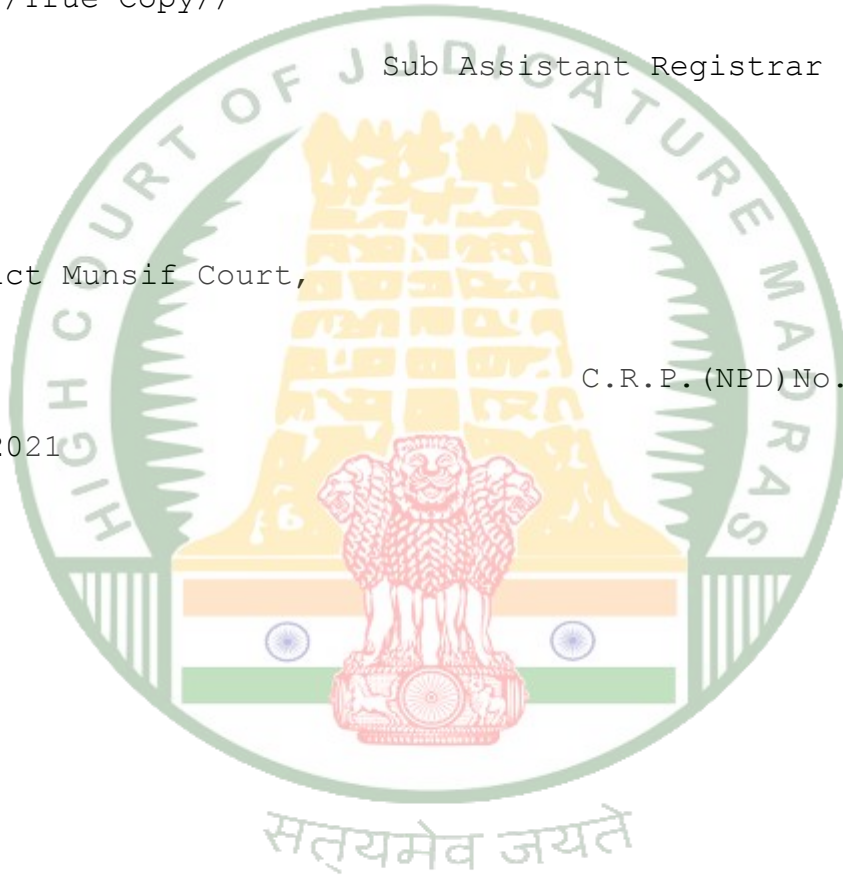
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To

The District Munsif Court,
Tambaram.

CA(CO)
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