



IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 18.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. PD.No.272 of 2021
and
C.M.P.No.2530 of 2021

1.Usha
2.T.Aravind
3.T.Bharani

...Petitioners/Defendant

Vs

P.Selvi

...Respondent/Petitioner

PRAYER: Civil Revision Petition filed under Section 227 of Civil Procedure Code to set aside the fair and final order passed by the Dub Court, Rasipuram, dated 19.11.2020, made in I.A.No.5 of 2020, in O.S.No.8 of 2017.

For Petitioner : B.Jawahar

O R D E R

This revision petition has been filed against the order dated 19.11.2020 made in I.A.No.5 of 2020 in O.S.No.8 of 2017 by the Sub Court, Rasipuram, rejecting the interlocutory application filed, praying to send the sale agreement to an expert for comparison.

2. The petitioners herein are the defendants and the respondent is the plaintiff in a suit filed in O.S.No.8 of 2017 on the file of the Sub Court, Rasipuram. The said suit was filed by the respondent herein for specific performance. During the pendency of the suit, it appears that the petitioners herein have come out with an interlocutory application in I.A.No.5 of 2020 seeking to send the sale agreement for expert opinion, in order to prove the signature of the respondent/plaintiff. The said application was rejected by the Court below and hence, the petitioners are before us by way of this revision petition.

3. The grievance of the petitioners is that the Court below had not considered the fact that the parties have entered into another sale agreement subsequent to the sale agreement, on which, the respondent/plaintiff filed a suit. Since the subsequent sale agreement was disputed by the respondent/



plaintiff and while during the cross examination of D.W.1, specific action was put to D.W.1 as to whether he had taken steps to send the subsequent sale agreement to expert opinion, it becomes necessary for the petitioners/defendants to seek for expert opinion, in order to prove their case. However, without considering the same and even without assigning any reasons, the Court below has rejected the same by a non-speaking order.

4. This Court finds a considerable course in the claim of the petitioners/defendants. On a perusal of the order passed by the Court below, it is clear that the Court has not assigned any reasons for rejection. Further, when the defendants/petitioners have categorically pleaded that subsequent to the sale agreement, they have entered into another agreement, which, according to the petitioners, would override the previous sale agreement, it is for the Court below to decide the same on merits.

5. In view of these facts, this Court is of the view that the matter is to be remitted back to the Subordinate Court, Rasipuram for fresh consideration. The learned Subordinate Judge, Rasipuram is directed to consider the Interlocutory Application and pass appropriate orders on merits in accordance with law, as expeditiously as possible.

6. With the above observations this civil revision petition stands disposed of and the order dated 19.11.2020 made in I.A.No.5 of 2020 in O.S.No.8 of 2017 is hereby set aside. No costs. Consequently, connected civil miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sbn

To

The Subordinate Court, Rasipuram.

+1cc to Mr.B.Jawahar, Advocate, S.R.No.9694

C.R.P. PD.No.272 of 2021 and
C.M.P.No.2530 of 2021

RGN(CO)
RGA(06/08/2021)