

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.NPD.No.1288 of 2018 and
CMP.No.6647 of 2018

K.Arumugam

..Petitioner

Vs.

Senthil Kumar

..Respondent

PRAYER:

The Civil Revision Petition is filed under Section 115 of CPC against the judgment and decree passed in IA.No.206 of 2017 in OS.No.169 of 2013 dated 12.01.2018 on the file of the II Additional Sub Court, Villupuram.

For Petitioner : Mr.D.Padmanabhan

For Respondent : M/s.V.Suguna
for Mr.C.Munusamy

ORDER

This Civil Revision Petition is filed against the judgment and decree passed in IA.No.206 of 2017 in OS.No.169 of 2013 dated 12.01.2018 on the file of the II Additional Sub Court, Villupuram,

thereby dismissing the petition to condone the delay in filing the set aside the exparte decree petition.

2. The petitioner is the defendant and the respondent is the plaintiff. The respondent filed suit for specific performance on the strength of the agreement for sale dated 26.05.2011. According to the respondent, on 26.05.2011 the petitioner agreed to sell the property for total sale consideration of Rs.2,70,000/- and also received a sum of Rs.2,50,000/-. As per the agreement, balance sale consideration of Rs.20,000/- payable within a period of two years and on receipt of the same, the petitioner ready to execute sale deed in favour of the respondent. It was also registered one as document No.2191 of 2011. After receipt of the suit summons, the petitioner failed to appear and as such he was set exparte and exparte decree was passed on 27.02.2014. When the respondent stated in the public, the property was already purchased by him, only thereafter the petitioner came to understand that the sale deed executed in favour of the respondent in respect of the property owned by him.

3. On perusal of the schedule of the property revealed that it measures 2.85 acres and it is an agricultural land including the value. Whereas the sale consideration was fixed only for a sum of

Rs.2,70,000/-. That apart, on receipt of Rs.2,50,000/- out of Rs.2,70,000/-, for remaining balance of amount of Rs.20,000/-, no prudent man would enter into an agreement fixing two years for payment of balance sale consideration. Further, according to the petitioner, he was dragged to the Registrar Office only for execution of mortgage deed and unfortunately, utilising the illiteracy of the petitioner, the respondent registered sale agreement vide document No.2191 of 2011. The petitioner never intended to sell the agricultural land. Therefore, he has got very good case to succeed the suit. On perusal of the affidavit filed in support of condone delay petition revealed that he fell ill with jaundice and also due to jaundice, he lost his vision. Therefore, he was not able to appear before the court below.

4. Considering the above, the petitioner may be given one more opportunity to defend the case on merits and in accordance with law. Accordingly, this civil revision petition is allowed and the order passed in IA.No.206 of 2017 in OS.No.169 of 2013 dated 12.01.2018 on the file of the II Additional Sub Court, Villupuram is set aside on condition that the petitioner shall deposit the entire advance amount received by him and also the balance sale consideration deposited by the respondent before the court below

within a period of eight weeks from the date of receipt of copy of this order. On such deposit, the sale deed executed in favour of the respondent is set aside and the petitioner is directed to file written statement within a period of two weeks thereafter. The trial court is directed to dispose of the suit within a period of six months thereafter. Consequently, connected miscellaneous petition is closed. No order as to costs.

22.04.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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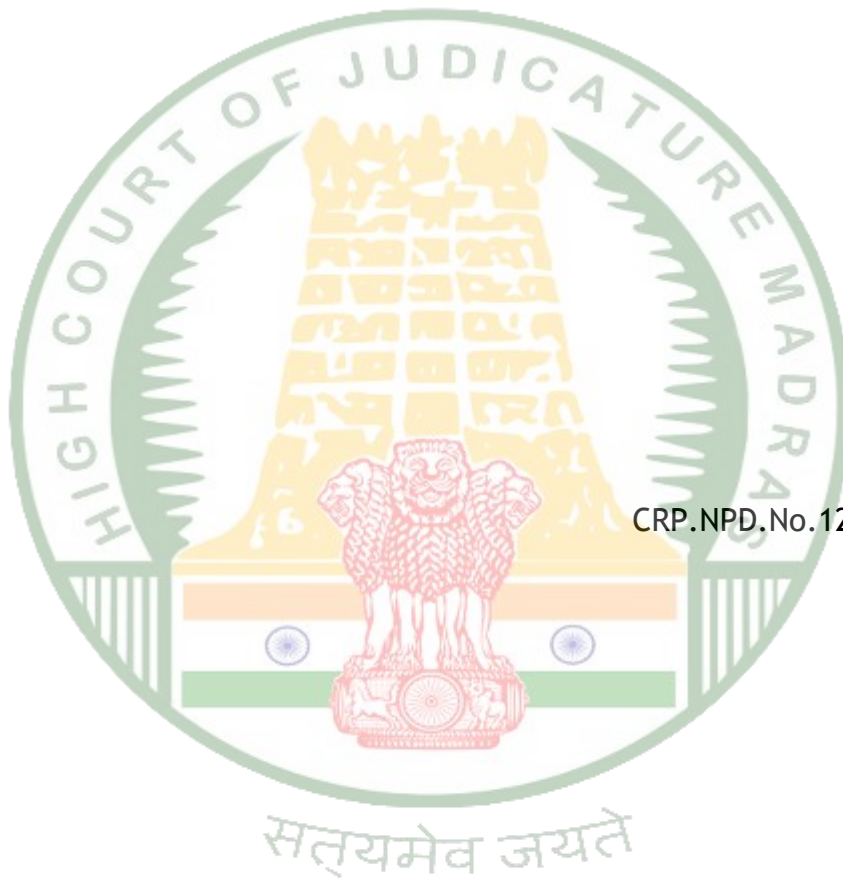
The II Additional Subordinate Court,
Villupuram.



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G.K.ILANTHIRAIYAN,J.

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