

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **29.04.2021**

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(PD).No.1613 of 2018
and C.M.P.No.8751 of 2018

Murugesan

... Petitioner

Vs

1.Pandurangan
2.Senthil Kumar

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the Fair and Decreetal order dated 03.02.2018 made in I.A.No.457 of 2017 in O.S.No.35 of 2017 on the file of the Sub Court, Jayankondam, Ariyalur District.

For Petitioner : Mr.V.Vijay Shankar
for M/s.C.S.Anu Varghese
For Respondents : Mr.R.Venkatesulu for R1
R2 - Not Ready in Notice

ORDER

This Civil Revision Petition is filed against the Fair and Decreetal order dated 03.02.2018 made in I.A.No.457 of 2017 in O.S.No.35 of 2017 on the file of the Sub Court, Jayankondam, Ariyalur District, thereby dismissing the petition sought for amendment in the prayer.

2. The petitioner is the plaintiff and the respondents are the defendants. The petitioner filed a suit for specific performance in the year 2010. In the year 2011, the first defendant filed a written statement and he is ready to discharge the loan amount of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand only) together with interest @ 24% per annum from 20.05.2009.

3. In pursuant to the written statement filed by the first defendant, the petitioner filed a petition to include an alternative prayer for claiming advance amount which was received by the first respondent. The said application was dismissed on the ground of limitation, since the petitioner filed the petition to include the alternative prayer for the period of six years from the date of filing of the written statement.

4. It is also seen that the first respondent herein stated that one Senthil Kumar had entered into an agreement to purchase the suit property for a total sale consideration of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only). After receipt of the entire sale consideration, executed the sale deed in favour of the said Senthil Kumar. Therefore, the petition can maintain the alternative prayer to return back the advance amount paid by him.

5. Accordingly, the order dated 03.02.2018 made in I.A.No.457 of 2017 in O.S.No.35 of 2017 on the file of the Sub Court, Jayankondam, Ariyalur District is set aside. this Civil Revision Petition is allowed. After carrying out the amendment, the respondents are at liberty to file their additional written statement and thereafter, the trial Court is directed to dispose of the suit within a period of *twelve months* from the date of receipt of a copy of this order. No order as to costs. Consequently, the connected miscellaneous petition is closed.

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29.04.2021

Internet: Yes
Index: Yes/No
rna

G.K.ILANTHIRAIYAN. J.

rna

To

The Sub Court,
Jayankondam, Ariyalur District.



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