

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2021

CORAM

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

CRP.PD.No.1760 of 2018 and
CMP.No.9812 of 2018

1.Adhimoolam
2.M.Kumaran

..Petitioners

Vs.

1.S.Velu
2.S.Muthu
3.S.Jaya @ Jayachandran
4.Kutty

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the order dated 23.04.2018 made in IA.No.462 of 2017 in OS.No.7 of 2015 on the file of the District Munsif, Arakkonam.

For Petitioners : Mr.G.Jeremiah

For Respondents : Mr.M.Sathishkumar

ORDER

This Civil Revision Petition is filed against the order dated 23.04.2018 made in IA.No.462 of 2017 in OS.No.7 of 2015 on

the file of the District Munsif, Arakkonam, thereby dismissing the petition for amendment.

2. The petitioners filed suit for injunction in respect of the suit property. The respondents filed written statement stating that the suit property was already purchased by them by way of suit for specific performance in OS.No.272 of 2009 filed as against their vendors. Therefore, the petitioners filed petition to amend the plaint for the following prayers:

Add: Suit for declaration

(1)Declaration that the decree passed on 19.10.2020 in OS.No.272 of 2009 itself is not valid and binding on the plaintiffs as the plaintiffs are not being parties to the said Suit in OS.No.272 of 2009.

Value for the purpose of court fee Rs.5,000.00

Court fee paid U/S 25(d) of TNCF Act Rs. 375.50

(2)Declaration that the sale deed dated 30.06.2015 bearing document No.4540/2015 executed in favour of 1st defendant on the file of Sub Registrar II, Arakkonam is null and void.

Value for the purpose of court fee Rs.5,000.00

Court fee paid U/S 25(d) of TNCF Act Rs. 375.50

Total Value for the purpose of court fee Rs.11,000.00

Total C.F. paid 25(d) and 27(c) of TNCF Act Rs. 826.50

In Prayer:

Add(a) (1): To declare that the decree passed on 19.10.2010 in OS.No.272 of 2009 is not valid and binding on the plaintiffs as the plaintiffs are not being parties to the said suit OS.No.272/2009

a(2) to declare that the Sale deed dated 30.06.2015 bearing document No.4540 / 2015 executed in favour of 1st defendant on the file of Sub Registrar-II, Arakkonam is null and void

In schedule of property:

In 1st line : Delete Arakkonam Taluk, at present Nemili Taluk

2nd line before the word Patta add 'Old", after the patta No.278 add "New Patta No.1342".

3. The court below dismissed the said application on the ground that it was filed belatedly and also after commencement of trial. Admittedly, at the time of filing the suit, the petitioners had no knowledge about the purchase of the property by the respondents herein. Only after filing the written statement, the petitioners came to knowledge about the purchase of the suit property. The petitioners were not able to file petition for amendment immediately for the reason that his counsel who appeared before the trial court died. Therefore, after getting bundle from his Office and engaging new counsel, filed the petition for amendment. That apart, the amendment

sought for by the petitioners would not change the character of the suit and when the respondents already purchased the suit property by way of suit for specific performance in OS.No.272 of 2009, the petitioners necessarily have to challenge the sale deed in the manner known to law.

4. In view of the above discussion, this civil revision petition is allowed and the order dated 23.04.2018 made in IA.No.462 of 2017 in OS.No.7 of 2015 on the file of the District Munsif, Arakkonam is hereby set aside. The respondents are permitted to file their additional written statement. Thereafter, the trial court is directed to dispose of the suit within a period of six months from the date of receipt of additional written statement. Consequently, connected miscellaneous petition is closed. No order as to costs.

30.04.2021

Speaking/Non-speaking order

Index : Yes/No

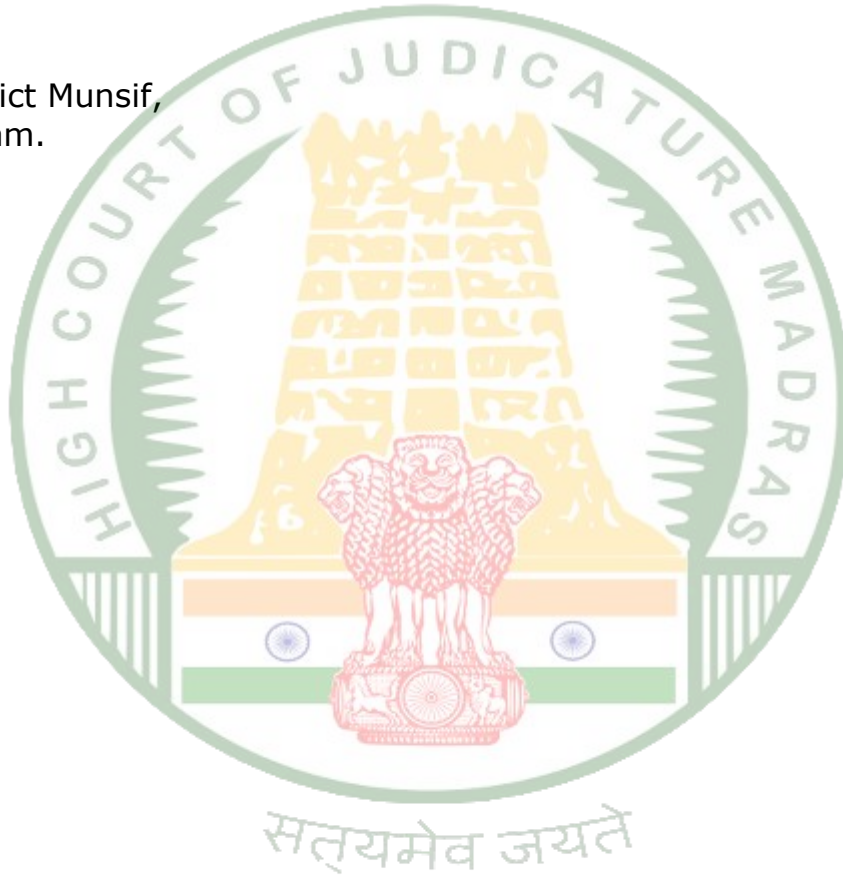
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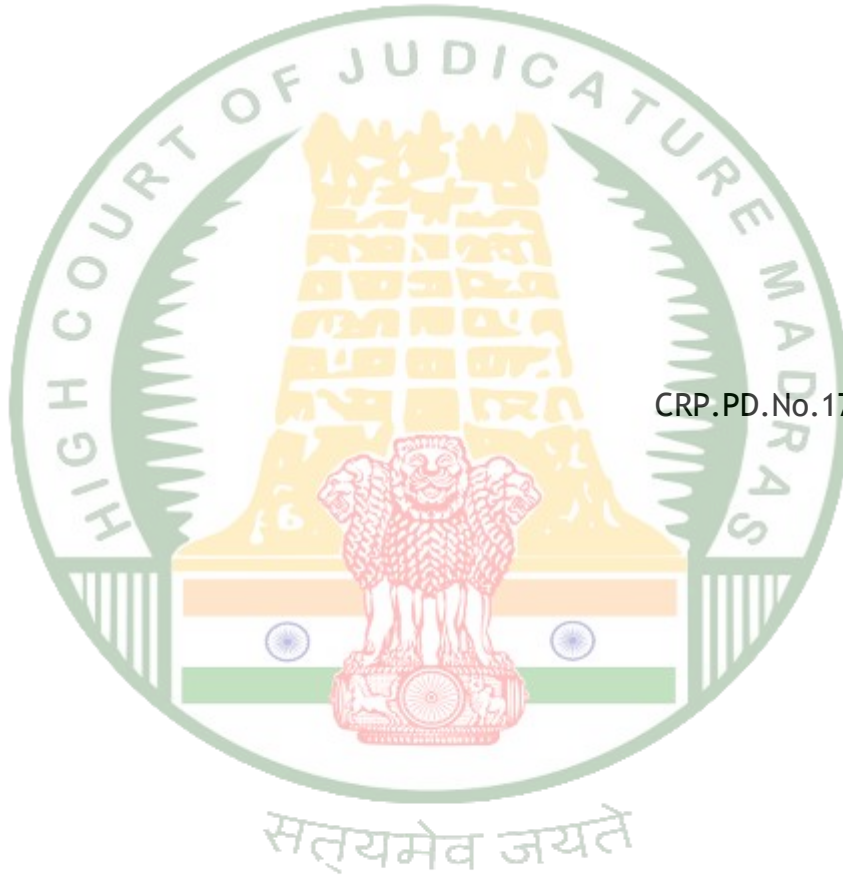
The District Munsif,
Arakkonam.



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G.K.ILANTHIRAIYAN,J.

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