

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2021

CORAM

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

CRP.PD.No. 2173 of 2016

P.Arikrishnan

... Petitioner

Vs.

B.Veeramani

... Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the fair and decretal order passed in I.A.No.23 of 2016 in O.S.No.170 of 2013 on the file of the Subordinate Judge, Panruti and allow the Civil Revision Petition.

For Petitioner : Mr. R. Venkatajalapathy

For Respondent : Mr. B. Gopalakrishnan for
Mr. A.Rajesh Kanna

ORDER

This Civil Revision Petition is arising out of fair and decretal order in I.A.No.23 of 2016 in O.S.No.170 of 2013 dated 01.04.2016 on the file of the Subordinate Judge, Panruti, thereby, dismissing the petition filed by the petitioner to reject the plaint.

2. The respondent is the plaintiff. He filed a suit as against the petitioner for specific performance on the strength of the agreement for sale dated 02.10.2013. Thereafter, the petitioner failed to execute the sale deed in favour of the respondent herein. In fact, the respondent has been always ready and willing to perform his part of contract and requested the petitioner repeatedly for execution of sale deed in his favour, after receiving the balance sale consideration. The petitioner simply postponed the execution of sale deed by saying one or other reason. While pending the suit, the petitioner filed a petition for rejection of plaint only on the ground that the respondent filed a suit for specific performance based on the un-registered sale agreement for sale dated 02.10.2013.

3. The learned counsel for the petitioner submitted that the petitioner filed a petition for rejection of plaint along with the written statement. For want of some compliance, it was returned by the trial Court. Thereafter, the petitioner failed to re-present the same before the trial Court. When the matter was posted for trial, the petitioner filed a petition to reject the plaint. The trial Court dismissed the petition only on the ground that

when the petitioner filed a petition for rejection of plaint along with the written statement, he failed to re-present the same. Without re-presenting the said rejection of claim petition, he had come forward with the fresh petition only to drag on the proceedings. He would further submit that suit itself is filed only on the strength of the un-registered sale deed and as such, there is no cause of action to file the suit for specific performance as against the petitioner herein.

4. The respondent filed the suit for specific performance on the strength of the sale agreement dated 02.10.2013. The only ground raised by the petitioner is that the respondent filed the suit on the strength of un-registered sale agreement dated 02.10.2013. Therefore, the ground raised by petitioner has to go into by full fledged trial, that too by letting in evidence in trial. The contention that the agreement is not a registered one, cannot be a ground for rejection of the plaint.

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5. Though the trial Court had dismissed the petition on some other ground, the ground raised by the petitioner cannot be considered for rejection of plaint. Therefore, the petition is liable to be dismissed.

Therefore, this Court finds no merit in this Civil Revision Petition.

Accordingly, this Civil Revision Petition is dismissed. No costs.

11.01.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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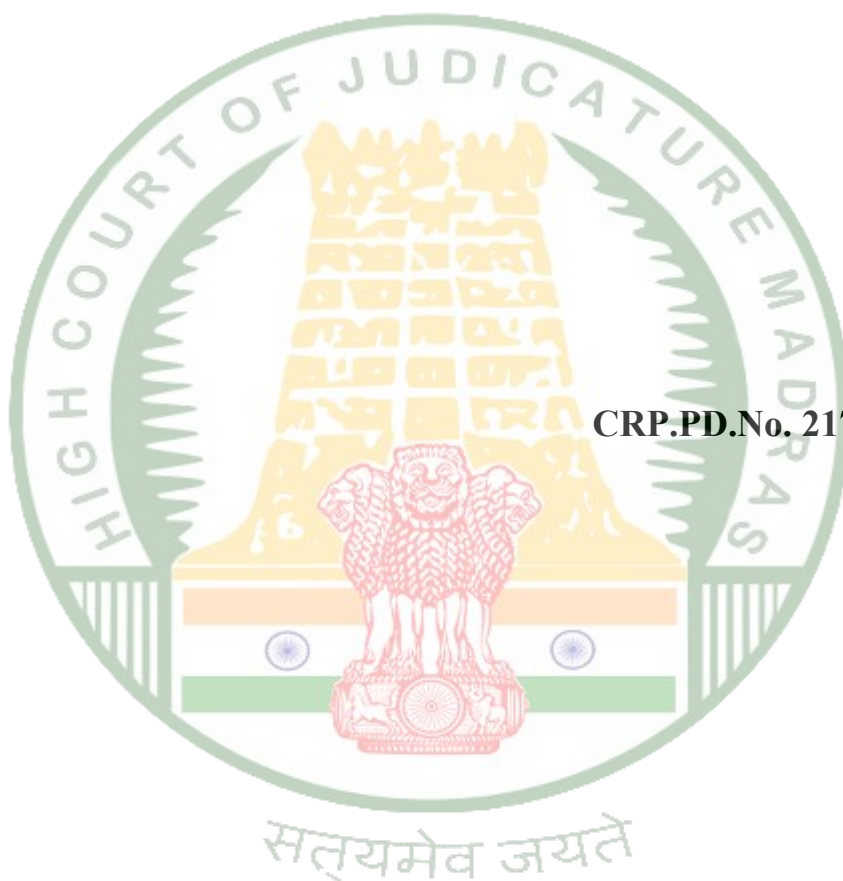
The Subordinate Court, Panruti



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G.K.ILANTHIRAIYAN,J.

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