

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP.NO.1049/2021

[VIDEO CONFERENCING]

B.Gowdappa

.. Petitioner

Vs

1.Jayamma

2.Venkatesappa

3.Smt.Sampangiyamman

.. Respondents

Prayer:-

This Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the Principal District Court at Krishnagiri, to number the suit filed by the petitioner under OSCFR No.1317/2021.

For Petitioner : Mr.S.Chandrasekar

ORDER

1. Considering the scope of the Revision, notice to the respondents is deemed unnecessary.
2. The petitioner laid a suit for specific performance based on a oral Agreement of Sale. It is the specific claim of the plaintiff that the defendants are closely related to him and the Agreement was carried out in good faith. It is also averred that the agreement was entered into in the presence of certain respectable persons in the locality. The learned Trial Judge had returned the plaint on the ground that no evidence of Agreement of Sale has been produced. The first return was made on 19.02.2021, wherein the learned Principal District Judge, required the plaintiff to produce the written Sale Agreement. The plaint was represented on 02.03.2021 citing certain judgments

justifying the right of the plaintiff to file a suit based on an oral agreement.

3. The learned Principal District Judge, Krishnagiri, has again returned the plaint concluding that the previous return holds good.
4. There are two errors in the approach of the learned Principal District Judge, Krishnagiri.
5. The learned Principal District Judge, seems to be under the impression that a suit based on an oral Agreement of Sale, cannot be maintained and there should be some evidence in writing to prove the Agreement. This approach is clearly wrong. An Agreement of Sale need not be in writing. A plaintiff can establish an oral Agreement by letting in oral evidence and therefore, the first ground on which the plaint is returned, cannot be sustained.
6. As far as the other ground is concerned, once the learned Principal District Judge comes to the conclusion that the previous return holds good and does not accept reasons given for previous return, he ought to have rejected the plaint and not returned the same to the plaintiff,, giving time to represent the same.
7. Even while representing the plaint on 02.03.2021, the learned counsel for the plaintiff/petitioner herein has made it very clear that there is no written Agreement and even in the plaint, it is made clear that there is no written Agreement and the parties being relatives, they trusted each other. Therefore, I do not think that the action of the learned Principal District Judge, in returning the plaint could be sustained.
8. In the result, the Civil Revision Petition is allowed and the order of the learned Principal District Judge, Krishnagiri, in returning the plaint dated 26.03.2021 is set aside. The learned Principal District Judge, Krishnagiri, is directed to number the suit and proceed with the same on merits without being, in any manner, influenced by any of the observations made in this order. No costs.

9. The Registry is directed to return the original plaint said to have been filed on 26.04.2021 to the learned counsel for the petitioner. The plaint shall be represented within a period of six weeks from today.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

AP

To

The Principal District Judge
Krishnagiri.

Copy To

1. The Section Officer,
Judicial Department,
High Court, Madras.
2. The Section Officer,
ER Section, High Court,
Madras-104.
3. The Sub Assistant Registrar,
AE Section (Main),
High Court, Madras.

+2cc to Mr.S.Chandrasekar, Advocate, S.R.No.27349

सत्यमेव जयते

CRP.No.1049 of 2021

SSN(CO)
CS/10/06/2021

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