

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2021

CORAM

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

C.R.P.(PD)Nos.2698 & 2699 of 2018
and C.M.P.No.15971 of 2018

1. Durlop Chopra
2. Seema Chopra

... Petitioners
in both CRPs.

Vs.

S.Venkaresan

... Respondent
in both CRPs.

Common Prayer :- Civil Revision Petitions are filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 13.07.2018 made in I.A.Nos.271 & 272 of 2017 in O.S.No.91 of 2011 respectively, pending on the file of the learned III Additional District Judge, Tiruvallur at Poonamalle.

For Petitioners
in both CRPs : Mr.P.C.Harikumar

For Respondent
in both CRPs : Ms.Lakshmi Vasudevan

COMMON ORDER

These Civil Revision Petitions are directed as against the fair and decreetal order dated 13.07.2018 passed by the learned III Additional District Judge, Tiruvallur, Poonamalle, in I.A.Nos.271 & 272 of 2017 in O.S.No.91 of 2011 respectively, thereby dismissing petitions to re-open and re-call P.W.1, for further cross-examination.

2. The petitioners are the defendants in the suit filed by the respondent in O.S.No.91 of 2011 for specific performance. According to the petitioners the alleged agreement for sale cannot be performed, since it was obtained by fraud. In view of the fraud committed by the respondent for fabricating the sale agreement, they lodged complaint on the file of the Inspector of Police, T4 Maduravoyal Police Station, Chennai as against the respondent. In that case, he was arrested and subsequently released on bail. In respect of the above details, the petitioners have to re-call P.W.1 for further cross-examination and therefore filed petitions in I.A.Nos.271 & 272 of 2017 to re-open and re-call P.W.1. The trial Court dismissed both the petitions as against which the present Civil Revision Petitions.

3. On perusal of records revealed that after examination of P.W.1 and P.W.2, the petitioners filed application to issue subpoena to the Sub Inspector of Police, T4 Maduravoyal Police Station. The said petition was dismissed by the Court below on 08.06.2015 and the same was confirmed by this Court in C.R.P.No.4316 of 2015 by an order dated 27.06.2017. Only for that reason, the Court below dismissed the petitions filed by the petitioners to re-open and re-call P.W.1. The suit is for specific performance as such, the petitioners may be given one more opportunity to cross-examine P.W.1 to put relevant question in respect of the criminal case registered in Crime No.665 of 2015 on the file of the Inspector of Police, T4 Maduravoyal Police Station. Therefore, the order passed by the Court below is perverse and liable to be set aside.

4. In view of the above discussions, the order dated 13.07.2018 passed by the learned III Additional District Judge, Tiruvallur, Poonamalle, in I.A.Nos.271 & 272 of 2017 in O.S.No.91 of 2011 is hereby set aside on condition that the petitioners shall pay a sum of Rs.5,000/- (Rupees five thousand only) as cost to the respondent within a period of two weeks from

the date of receipt of a copy of this order. On such payment, the petitioners are directed to cross-examine P.W.1 on the date fixed by the trial Court. It is made clear that if the petitioners failed to cross-examine P.W.1 on that day, the trial Court viz., the learned III Additional District Judge, Tiruvallur, Poonamalle, is directed to proceed with the trial and dispose the suit within a period of six months thereafter.

5. With the above directions, both the Civil Revision petitions are allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

25.06.2021

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts

सत्यमेव जयते

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To

1. The III Additional District Judge,
Tiruvallur, Poonamalle.
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.

rts



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