

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2021

CORAM

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

CRP.PD.No.35 of 2018

1.Selvaraj
2.Kamatchi

..Petitioners

Vs.

Pugalendi

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order in IA.No.94 of 2017 in OS.No.11 of 2017 dated 15.12.2017 on the file of the Additional District Judge, (FTC) Villupuram.

For Petitioners : Mr.N.Suresh

For Respondent : M/s.Vasundra Thiagarajan
for Mr.R.Thiagarajan

ORDER

This civil revision petition is filed against the fair and decretal order passed in IA.No.94 of 2017 in OS.No.11 of 2017 dated 15.12.2017 on the file of the Additional District Judge, (FTC) Villupuram, thereby dismissing the petition for rejection of plaint.

2. The petitioners are the defendants and the respondent is the plaintiff. The respondent filed suit for recovery of money under the registered sale agreement dated 20.01.2016 and

unregistered agreement dated 20.01.2016. While pending the suit, the petitioners filed petition for rejection of plaint on the ground that the respondent filed suit for recovery of advance amount alleged to have been paid by him under two agreements for sale, one agreement dated 20.01.2016 for Rs.5,00,000/- and another agreement for Rs.15,00,000/- which is said to have been paid by the petitioners. There is a clear bar under Section 17 (1) (g) of Registration Act, 1908 in respect of agreement relating to sale of immovable property. When it is an unregistered sale agreement, it cannot be used for collateral purpose and as such the suit itself is clear bar under law and not sustainable as against the petitioners herein.

3. On perusal of the plaint revealed that the suit is filed for recovery of money under the sale agreements. But the agreements came into force only as security for the amount borrowed by the petitioners herein. When the suit is filed for specific performance, the unregistered and unstamped agreement for sale cannot be relied upon and it is barred as per the provisions under Section 17 (1) (g) of Registration Act and also under the Stamp Act. Therefore, the contentions of the petitioners are rightly rejected by the court below. As such, this Court finds no infirmity or illegality in the order passed by the court below.

4. Accordingly, this civil revision petition is dismissed.

However, the trial court is directed to frame the above point as an issue and try the suit. No order as to costs.

16.04.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

lok



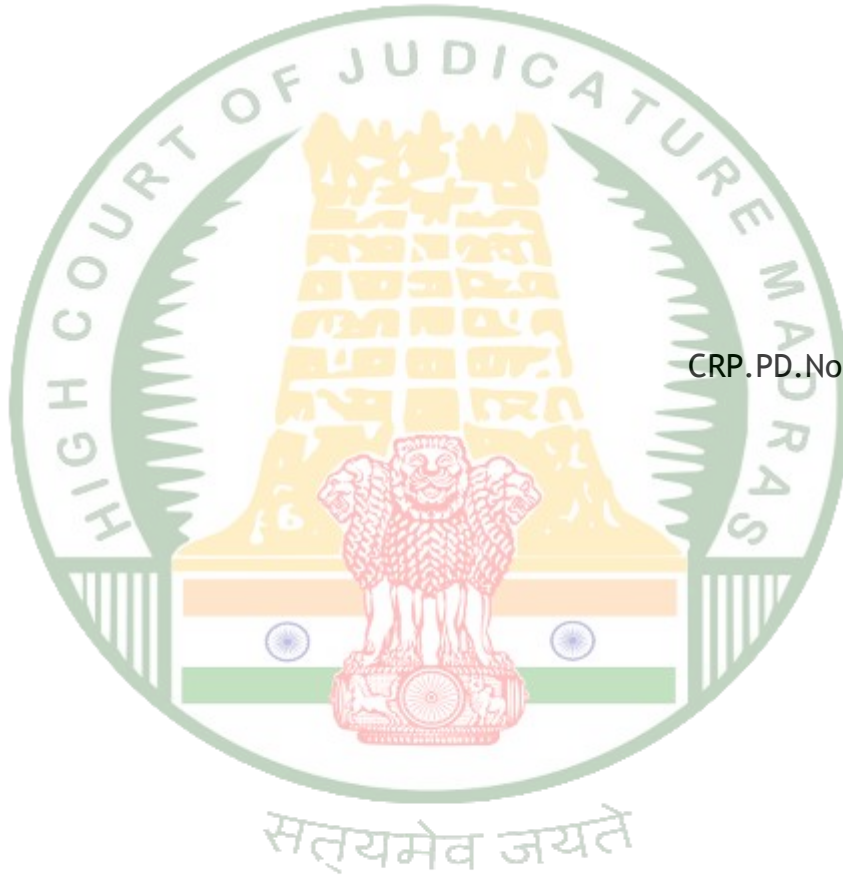
WEB COPY

G.K.ILANTHIRAIYAN,J.

lok

To

The Additional District Judge,
(FTC) Villupuram.



CRP.PD.No.35 of 2018

WEB COPY

16.04.2021