

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.09.2021

CORAM

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

CRP. (PD) No.2123 of 2021

A.Rzwan

... Petitioner

Vs.

Chinna Pillappa

... Respondent

Civil Revision Petition is filed under Article 227 Constitution of India to direct the District Sessions Judge, Krishnagiri to number the plaint in O.S.SR.No.305 of 2021.

For Petitioners

: Mr. N.A.Nissar Ahmed

O R D E R

This petition has been filed seeking direction to the District Sessions Judge, Krishnagiri to number the plaint in O.S.SR.No.305 of 2021.

2.The learned counsel for the petitioner submitted that the petitioner filed the suit for specific performance of contract on the basis of sale agreement

entered into with the respondent dated 01.10.2020. This plaint was returned by the learned trial Judge stating as to,

"(1) how the suit can be registered on the basis of an unregistered sale agreement,

(2) patta, chitta in favour of the defendant to be produced, Encumbrance Certificate to be filed up to date and

(3) alternative prayer was not sought for."

The petitioner complied return stating that the petitioner can maintain the suit for specific performance on the basis of unregistered sale agreement. Other returns have also been complied with. There was a return made on 08.04.2021 stating that the name of the defendant is not found in the Encumbrance Certificate from 2013.

3. The learned counsel for the petitioner submitted that the defendant purchased the property in the year 2011 and therefore, the respondent's name cannot be found in Encumbrance Certificate.

4. Heard. It is not necessary at this stage for the Court to insist on production of patta, chitta standing in the name of the respondent. The suit is filed on the basis of an unregistered sale agreement claiming the respondent as

owner of the suit property. If the petitioner fails to support his case that the respondent is the owner of the suit property, ultimately, the suit will fail. At the moment, it is enough to proceed further with the sale agreement. The suit for specific performance on the basis of unregistered sale agreement can be entertained. Therefore, the learned trial judge is directed to number the plaint if it is otherwise in order, issue summons to the defendant and proceed to dispose the case on merits in accordance with law.

5. Accordingly, this Civil Revision Petition stands Disposed of. No costs. Consequently, connected miscellaneous petition is closed.

30.09.2021

Index: Yes / No
Speaking order / Non speaking order
vsn

Copy To:

The District Sessions Judge,
Krishnagiri

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G.CHANDRASEKHARAN. J.,

vsn



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