

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2021

CORAM

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

CRP.PD.No.3231 of 2018

and

CMP.No.18424 of 2018

K.Kondappan

..Petitioner

Vs.

1.M.Senthikumar

2.R.Senthil

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the docket order dated 25.07.2018 passed by the learned Subordinate Judge, Paramathy in IA.No.119 of 2018 in OS.No.57 of 2018 and allow the civil revision petition.

For Petitioner : Mr.K.Soundararajan

For Respondents : Mr.M.Premkumar  
for Mr.S.Senthil

**ORDER**

This Civil Revision Petition is filed against the docket order dated 25.07.2018 passed by the learned Subordinate Judge, Paramathy in IA.No.119 of 2018 in OS.No.57 of 2018, thereby dismissing the petition for seeking appointment of advocate commissioner to inspect the suit property and value the same.

2. The petitioner is the first defendant and the respondents are the plaintiffs. The respondents filed suit for specific performance on the strength of the agreement for sale dated 03.12.2012. While pending suit, the petitioner filed application for appointment of advocate commissioner to inspect the suit property with the help of the engineer from the Public Works Department and value the house along with amenities provided in the suit property and file his report.

3. The learned counsel for the petitioner would submit that the second defendant in the suit borrowed amount from the respondents, for which the petitioner is being his father executed agreement for sale instead of mortgage deed. In the mofussil area, they used to execute the agreement for sale instead of mortgage deed. The petitioner never intended to sell the house to the

respondent and the sale consideration fixed by the respondent is very low. They fixed sale consideration at Rs.4,75,000/- whereas the suit property with the house valued more than Rs.40,00,000/-. Therefore, the petitioner sought for appointment of advocate commissioner to value the suit property.

4. The learned counsel for the respondent would submit that when the matter was posted for arguments, after examining both side evidence, the present application has been filed only to drag the proceedings.

5. On perusal of the records, revealed that the suit was filed on the strength of the agreement for sale dated 03.12.2012. According to the petitioner, the value of the suit property is more than Rs.40,00,000/- whereas the sale consideration fixed in the agreement for sale at Rs.4,75,000/- That apart, the petitioner also filed his counter claim to cancel the agreement for sale dated 03.12.2012. Therefore, while considering the claim of the petitioner for cancelling the agreement for sale, the trial court is directed to consider the value of the suit property and decide the claim on merits and in accordance with law.

6. With the above direction, this civil revision petition is disposed of. Consequently, connected miscellaneous petition is closed.  
No order as to costs.

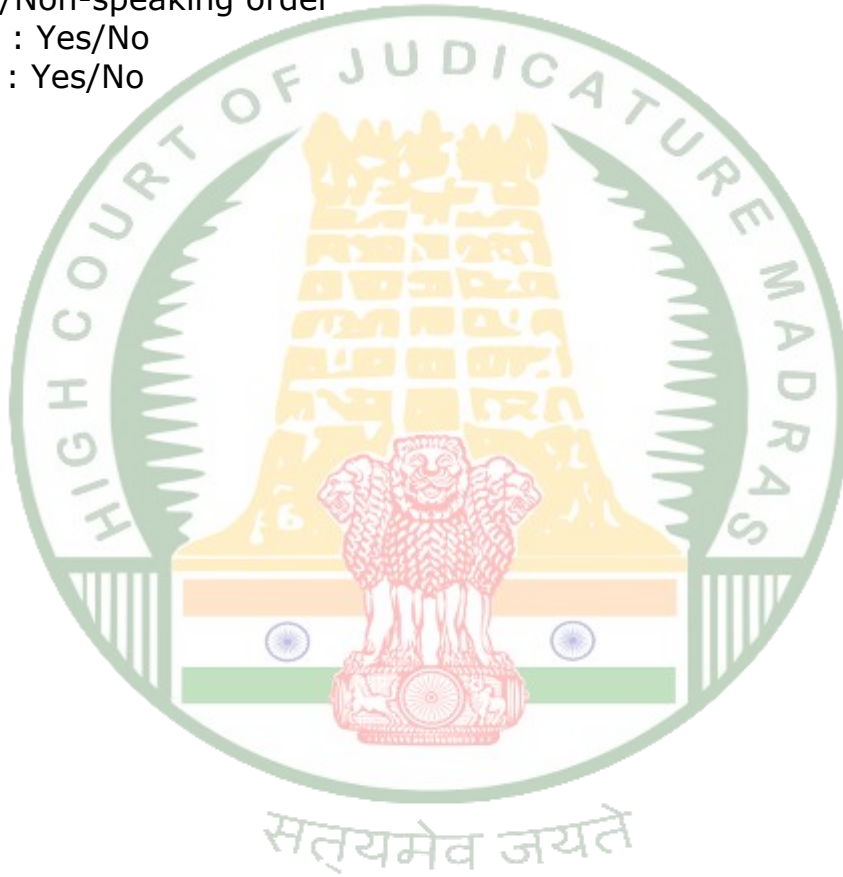
23.06.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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To

The Subordinate Judge,  
Paramathy



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**G.K.ILANTHIRAIYAN,J.**

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