



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.12.2021
CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

**C.R.P. (PD) (MD) No.2078 of 2021
and
C.M.P. (MD) No.11064 of 2021**

K.Padmapriya

.. Petitioner/Defendant

-vs-

K.Kalaivanan

.. Respondent/Plaintiff

Prayer :- Petition filed under Article 227 of the Constitution of India to strike off the plaint in O.S.No.221 of 2021 on the file of the Principal District Judge at Karur.

For Petitioner : Mr.R.Ramadurai

ORDER

The petitioner/defendant has invoked the superintending jurisdiction of this Court under Article 227 of the Constitution of India to strike off the plaint in O.S.No.221 of 2021 on the file of the learned Principal District Judge, Karur.

2.The suit has been filed by the plaintiff/respondent herein for recovery of the advance amount of Rs.50,00,000/- together with interest at 12% p.a. totally Rs.74,96,028/- with subsequent interest and to create a charge over the suit property in respect of the above amount till its payment.

3.The plaintiff in his plaint would contend that the defendant, who was working in the Little Angels' English Higher Secondary School at Karur, had agreed to sell the suit property to the plaintiff for a total sum of Rs.1 Crore for which, an advance of Rs.50,00,000/- was paid and a receipt acknowledging the advance has also been issued on 14.07.2017. This receipt has been filed as Document No.1 along with the plaint.

4.The defendant would submit that all along she was ready and willing to proceed with the sale. However, it was the plaintiff,



who was dodging the execution of the Sale Deed and ultimately, the plaintiff came to learn that the defendant was making attempts to sell the property and therefore, without issuing notice, the suit came to be filed. The petitioner herein who is the defendant, on receiving summons in the above suit, has immediately filed this revision to strike off the plaint.

5.The ground on which the plaint is sought to be strike off is that Document No.1 is a created document, since it has been issued on the letterhead of the School with the revision petitioner's signature. Therefore, it is the contention that the suit has been filed on the basis of a fabricated document. Another ground which has been raised is that the plaint had been initially returned for certain compliances and when it was re-presented, two more documents have been added to the list of documents, which are the legal notice dated 16.10.2021 and the acknowledgement dated 18.10.2021, when the suit has been verified on 21.09.2021.

6.Learned counsel for the petitioner has also based his entire arguments on these two grounds. He would submit that mere perusal of the alleged document would indicate that it has been executed in the letterhead of Little Angels' English Higher Secondary School and is not in the personal letterhead of the petitioner/defendant.

7.Heard the learned counsel for the petitioner and perused the papers.

8.This Court is of the view that the above contentions are subject to proof, which can be achieved only if the trial is conducted in the above suit. At the stage of revision, this Court does not wish to comment upon the authenticity or otherwise of the documents. The above grounds are not sufficient to strike off a plaint, as the same does not come within any of the grounds contemplated under the provisions of Order 7 Rule 11 or Order 6 Rule 16 of the Civil Procedure Code. Therefore, I am of the view that no grounds having been made out by the petitioner, this revision is liable to be dismissed and accordingly, is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

abr

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Note:-

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

1. THE PRINCIPAL DISTRICT COURT, KARUR.
2. THE RECORD KEEPER, VENACULAR SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI. (2 COPIES)

C.R.P.(PD) (MD) No.2078 of 2021
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SP/27/01/2022/3P/4C