



C.R.P.(NPD) No.94 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(NPD) No.94 of 2022

R.Nagappan

.... Petitioner

-Vs-

1.T.Muthusamy
2.M.Arunkumar
3.S.Ganesan

.... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to direct the learned Subordinate Judge, Tiruchengode to number to Unnumbered O.S.No..... of 2021 on the file of the learned Subordinate Judge, Tiruchengode by allowing the present revision petition.

For Petitioner : Ms.R.Shase

ORDER

In view of the fact that the plaint has been rejected even before numbering, notice to the respondents is deemed unnecessary.

2. Challenge in this revision is to the order of the Trial Court rejecting the plaint filed by the petitioner even without numbering. The petitioner sought for a decree for specific performance based on an unregistered sale deed dated 23.04.2021. The learned Subordinate Judge, Tiruchengode returned the plaint questioning the maintainability of a suit for specific performance based on an unregistered sale deed.



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It was re-presented with an endorsement that, in view of Section 49 of the Registration Act, an agreement of sale need not be registered. The learned Subordinate Judge was not convinced with the explanation offered by the learned counsel for the plaintiff and rejected the plaint on the ground that the suit for specific performance cannot be maintained on the basis of an unregistered sale deed. The learned Judge relied upon Section 17 of the Registration Act and Section 12 of the Specific Relief Act.

3. I am unable to sustain the view of the learned Subordinate Judge. She has completely overlooked the provisions of Section 49 of the Registration Act and the judgment of the Hon'ble Supreme Court in "**S.Kaladevi -Vs- V.R.Somasundaram and Others**" reported in **2010 (5) SCC 401** , where in the Supreme Court specifically held that, a suit for specific performance can be laid on the basis of an unregistered sale deed.

4. Hence, the Civil Revision Petition is allowed and the order of the learned Subordinate Judge is set aside. The learned Subordinate Judge, Tiruchengode is directed to number the suit and proceed to dispose of the same in accordance with law.

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R. SUBRAMANIAN, J.
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