



C.R.P.(PD) No.609 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2022

CORAM : JUSTICE N.SESHASAYEE

C.R.P.(PD) No.609 of 2021
and CMP.No.5244 of 2021

Anand Jayapaul

... Petitioner / Defendant / Petitioner

Vs.

Samuel Z.Kovilpillai
Rep by Power Agent
Mr. Joswa Jyothi Anbaiah

... Respondent /Plaintiff / Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to allow the civil revision petition and set aside the order dated 05.02.2021 made in I.A.No.4 of 2020 in O.S.No.208 of 2019 on the file of the learned Additional District Judge, Hosur.

For Petitioner : Mr.Jeremiah Gregory John

For Respondent : Mr.T.Ananthasekar



C.R.P.(PD) No.609 of 2021

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ORDER

The revision petitioner is the defendant in O.S.No.208/2019, which the respondent/plaintiff has filed for setting aside certain sale deeds executed in favour of the defendant/revision petitioner as concerning three schedules of properties, and the subject matter of the suit is limited to Item Nos.2 and 3.

2. According to the plaintiff, he is the founder of a certain Trust known by the name 'Anandha Ashram', and all the three items of properties were purchased by the plaintiff for the benefit of the Trust sometime in 1998 and 2003. His further case is that he was about 91 years old, and that he was induced into believing that sale of Item Nos.2 and 3 would be profitable to the Trust, and believing which, he was drawn into executing the sale deeds. Later, he realised that the sale deeds were under-valued and it is a fraud on registration. In substance, the plaintiff contends that he has been duped and the suit is laid by the Power of Attorney Holder of the plaintiff. Hence, the suit was laid for setting aside the sale deeds along with allied relief of permanent injunction.



C.R.P.(PD) No.609 of 2021

3. Be that as it may, the defendant has filed an application in I.A.No.4/2020 under Order VII Rule 11 CPC, to reject the plaint, and this came to be dismissed by the trial Court Vide its decretal order dated 05.02.2021. Challenging which the present revision is filed.

4. The learned counsel for the revision petitioner raised two essential aspects :

- (a) The suit is laid by the Power of Attorney of the plaintiff, and there is no pleading that the Power of Attorney actually knew the allegations made in the plaint;
- (b) That the properties are essentially the personal properties of the plaintiff, and to say that they are the properties of the Trust, is a misleading allegation.

5. Heard both sides. Both the aspects raised by the learned counsel for the revision petitioner are essentially the grounds of his defence in the suit. In other words, the dispute herein is on facts, which can be resolved only if the suit goes for trial. Hence, the plaint cannot be rejected under Order VII Rule 11 CPC., This Court therefore finds there is little procedural space for



C.R.P.(PD) No.609 of 2021

this Court to interfere with the order of the trial Court. If the pleadings in the suit are complete, the learned District Judge may dispose of the suit in accordance with law, as expeditiously as possible.

6. The revision is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

21.03.2022

Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking order

ds

To:

The Additional District Judge
Hosur.



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C.R.P.(PD) No.609 of 2021

N.SESHASAYEE.J.,

ds

C.R.P.(PD) No.609 of 2021

21.03.2022