



WEB COPY



CRP.(PD)No.1266/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2022

CORAM:

Mr. JUSTICE N.SESHASAYEE

C.R.P.(PD)No.1266 of 2022
and C.M.P.No.6823 of 2022

P.Venkatesh

...Petitioner

Vs

M/s.S.J.Construction,
Rep by its Proprietor Mr.S.Sathish Kumar.

...Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to allow the Civil Revision Petition by setting aside the fair order and decretal order dated 17.12.2021 in I.A.No.11 of 2021 in O.S.No.220 of 2019 on the file of the Hon'ble Additional District Munsiff at Poonamallee.

For Petitioner : Mr.M.V.Seshachari

ORDER

The revision petitioner is the defendant in O.S.No.220 of 2019, which the



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respondent has laid for a bare injunction that the revision petitioner/defendant or his men should not carry out any additional work nor should try to take possession of the suit premises.

2.The respondent/plaintiff is a builder and the revision petitioner and the builder entered into a development contract. The allegation is that the defendant/revision petitioner is still under an obligation to pay a certain sum of money and that the contract has not been terminated.

3.The learned counsel for the revision petitioner would submit that damages for breach of contract is the adequate remedy and that it is not permissible in law to entertain a suit for bare injunction.

4.Broadly, if the allegation in the plaint is dissected, the allegation therein can be severed : (a) that the defendant owes a certain sum of money; (b) that the contract has not been terminated; and (c) that the defendant is in breach of the contract.



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5. Nowhere, it is said that the plaintiff has delivered possession of the property officially. Till possession is delivered lawfully, it is not given to the defendant to take physical possession of the property or to do any construction work therein. The prayer sought in the suit may have to be understood in this context.

6. This Court therefore holds that the revision petitioner seeking the striking of the plaint cannot be entertained. Hence, this Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

22.04.2022

Index : Yes/No
Speaking Order/Non Speaking Order
Tsg/dk

To
The Additional District Munsif,
Poonamallee.



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N.SESHASAYEE, J.,

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