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CRP.No. 1561 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2022

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

CRP.No. 1561 of 2020

and

CMP.No. 9344 of 2020

1.S. Ponnachary
2.Suryanarayanachary
3.Umamaheshwari
4. Manjula
5. Gowramma
6. Naveen

... Petitioners

Versus

1.Nagaraj
2.Hemanth Kumar
3.Sathish Kumar
4.Padma

.. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, prays to set aside the fair and decretal order dated 18.12.2019 made in I.A.No. 1 of 2019 in O.S.No. 211 of 2018 on the file of Additional Sub Court, Hosur.

For Petitioners : Mr.J.Nandagopal

For R1 : Mr.G.M. Ananthakumar
For RR 2 to 4 : No Appearance



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ORDER

This Civil Revision Petition has been filed seeking to set aside the fair and decretal order dated 18.12.2019 made in I.A.No. 1 of 2019 in O.S.No. 211 of 2018 on the file of Additional Sub Court, Hosur.

2. The revision petitioners herein are the defendants 1, 2 and 7 to 10, the 1st respondent herein is the plaintiff and the respondents 2 to 4 herein are the defendants 4 to 6 in the original suit proceedings.

3. The first respondent/plaintiff herein has filed the suit in O.S.No.211 of 2018 before the Additional Sub Court, Hosur, for specific performance of the suit sale agreement against the defendants, directing them to execute and register the sale deed with respect to the suit properties in favour of the plaintiff within the time allowed by the Court and deliver vacant possession of the suit properties to the plaintiff within the time allowed by the Court, failing which, the plaintiff be given liberty to get the sale deed executed and registered through the process of the Court and take delivery of vacant possession of the suit schedule



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properties through the Court execution proceedings and process of the Court and for future costs. During the pendency of the suit proceedings, the revision petitioners 1, 2 & 7 to 10 herein as well as the defendants 4 to 6 in the suit have filed I.A.No. 1 of 2019 in O.S.No.211 of 2018 under Order 7 Rule 11(d) of the Code of Civil Procedure, seeking to reject the plaint. After perusing the records, the trial Court dismissed the said application by order dated 18.12.2019. Aggrieved by the said order, the revision petitioners have filed the present Civil Revision Petition.

4. The learned counsel for the revision petitioners submitted that the suit was filed by the 1st respondent/plaintiff seeking the relief of specific performance. It is a false statement to state that the suit properties belonged to one Maligamma and the execution of agreement dated 03.05.2017 in favour of the respondent/plaintiff by Maligamma along with 3rd defendant, is false. He further submitted that the suit properties was purchased by the 1st defendant and the said agreement dated 03.05.2017 is an unregistered one. As per the Tamil Nadu Amendment Act, 29 of 2012 to the Registration Act, which came into force on 01.12.2012, the agreement for sale relating to immovable property for the value of



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Rs.100/- and upwards shall have to be registered and non registration of the same shall not confer any legal sanctity to the unregistered sale agreement and the same are legally unenforceable from 01.12.2012. Therefore, the plaintiff cannot seek any relief based on the unregistered agreement dated 03.05.2017 and the suit filed by the 1st respondent/plaintiff is barred by law. Hence, the revision petitioners pray to set aside the findings of the trial Court.

5. Per contra, the learned counsel for the 1st respondent/plaintiff submitted that it is true that the said Maligamma had executed an unregistered sale agreement dated 03.05.2017 in favour of the 1st respondent/plaintiff and the 3rd defendant also signed as witness in the sale agreement. The sale agreement is also binding on the legal heirs of Maligamma. He further submitted that the transaction between Maligamma and the 1st respondent is only a contract and hence, there is necessity to register the sale agreement. It is also absolutely false to state that the immovable property value of Rs.100/- and upwards should be registered. The sale agreement entered between the parties need not be registered, since it is only contract and as per Section 49 of the Indian



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Contract Act, the instrument written as contract need not be registered and the unregistered document is also valid even if the document is written in Rs.20/- stamp paper. Section 49 of the Registration Act, 1980, allows the unregistered document affecting immovable property to be received as evidence of contract in a suit for specific performance. He has also further submitted that the transaction between the said Maligamma and the plaintiff is only a contract and the said contract is also binding if any one of the parties dies and the said Maligamma died when the sale agreement is in force and hence, the sale agreement in the name of the plaintiff executed by Maligamma is binding on the revision petitioners/defendants and they are bound to execute the sale deed in favour of the plaintiff. Therefore, the petitioners herein have no right to ask for rejection of plaint. He further submitted that the plaintiff had denied all other contents in paragraph 11 of the plaint and the defendants, instead of filing written statement, have filed the said application in order to drag on the proceedings and hence, the learned counsel for the 1st respondent/plaintiff prays to dismiss the above Revision.



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6. On a perusal of the documents, it reveals that the suit was filed by the 1st respondent/plaintiff for specific performance in the year 2018 and the matter was pending for filing written statement by the revision petitioners herein. At this juncture, the petitioners had been filed the application in I.A.No.1 of 2019 seeking to reject the plaint on the ground that the suit is barred by law and hence, the plaint is liable to be rejected. In support of their contention, the petitioners have relied the judgments (i) CA.No.2960 of 2019 in SLP (C) No.20068 of 2013, (ii) SPL.(Civil).No.4483 of 1977, dated 14.10.1977, (iii) C.A.No.5368 of 2017 in SLP (C) No.35352 of 2016 and (iv) C.A.No.5415 of 2011, dated 02.07.2018.

7. On the other hand, the 1st respondent/plaintiff contended that there is no bar in the Registration Act, for instituting a suit based on the unregistered agreement. Therefore, the plaint cannot be rejected for the reason stated in the petition. In support of the contention, the respondent has relied on the judgments (i) CRP (PD).No.755 of 2015, dated 05.01.2018, (ii) CRP (NPD) No. 3799 of 2016, dated 05.12.2016, (iii) CRP.(PD).No. 2870 of 2010, dated 19.11.2014.



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8. The contention of the revision petitioners is that the suit has been instituted based on the strength of the unregistered agreement dated 03.05.2017 which is barred in view of Section 17 of the Registration Act and the petitioners. The respondent contended that there is no express bar in the Registration Act for instituting a suit based on the unregistered agreement and Section 17 of the Registration Act contemplates only compulsory Registration of certain documents. He further contended that, the admissibility, relevancy and proof of the documents can be gone into in the course of trial by appreciating the oral and documentary evidence in consonance with the pleadings available and the suit cannot be rejected as it is instituted based on the unregistered agreements.

9. On a further perusal of the records, it is seen that the 1st respondent/plaintiff filed the suit for specific performance based on the unregistered agreement dated 03.05.2017 and no doubt, the agreement dated 03.05.2017 requires registration in view of Section 17 of the Registration Act, for instituting a suit based on the unregistered agreement and admissibility of agreement dated 03.05.2017 can be gone into during the course of trial. There is no dispute as to the principles laid down by



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the Apex Court as relied on by the revision petitioners. However, the said dictum does not have any relevance to the case on hand. The rejection of the plaint can be ordered only with the available materials produced by the plaintiff in his pleadings and it is not required to look into the defendants case.

10. In the present case, it is the contention of the revision petitioners is that the suit is barred by law and as discussed above, there is no express bar in the Registration Act to institute a suit based on unregistered agreement. It is well settled that the plaint should be rejected only when the requirements as contemplated under Order 7 Rule 11 of CPC., are pleaded and proved. Such pleadings in support of application filed under Order VII Rule 11 of CPC., raising any of the grounds set out therein, should go to straightaway pinpoint the relevant averments made in the plaint supporting the claim of the defendants made in its application under Order VII Rule 11 of CPC. Applying the above said principle to the present case on hand, the reason stated by the revision petitioners is not a ground for the rejection of the plaint. Hence, the grounds raised by the revision petitioners before the trial Court are relating to the fact which are



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trialable issues, which can only be decided during the course of trial.

Further, the trial Court has rightly come to the conclusion and dismissed the said application and hence, there is no reason to interfere with the impugned order passed by the trial Court and the above Revision is liable to be dismissed.

11. With above discussions, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

16.12.2022

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
msm

To

1. The Additional Sub Judge, Hosur.
2. The Section Officer, V.R.Section, High Court, Madras.



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V.BHAVANI SUBBAROYAN, J.

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