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C.R.P.(PD) No.1800 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2022

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

C.R.P.(PD).No.1800 of 2022
and C.M.P.No.9191 of 2022

K.Selvaraj

... Petitioner

Vs.

S.Palanisamy

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the docket order dated 28.03.2022 made in O.S.No.190 of 2022 on the file of the learned Principal District Judge, Tiruppur.

For Petitioner : M/s.Dharani Subramanian

ORDER

This Civil Revision Petition has been preferred, to set aside the docket order dated 28.03.2022 made in O.S.No.190 of 2022 on the file of the learned Principal District Judge, Tiruppur.



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2. The revision petitioner is the plaintiff in the suit and he has filed the suit for specific performance and before his plaint was taken on file, the learned trial Judge returned the plaint on 25.02.2022 with the following written endorsement “lodgment for balance sale price to be filed”.

3. The re-presentation endorsement of the Advocate of plaintiff dated 25.03.2022 reads as under:

“It is submitted that the plaintiff has got sufficient means to purchase the property and to show the same the bank passbook (Xerox) of the plaintiff is also produced herewith. The bank pass book clearly shows that the plaintiff has got Rs.19,21,643.15 balance as on 24.03.2022. Further the depositing of amount in the court will fetch a very low rate of interest and whereas the money kept in Fixed deposit of his choice by the plaintiff will fetch a very more interest rate. Hence the plaintiff may be allowed to keep the money with him and on the date of decree being passed, the plaintiff will deposit the money with court.



Further the money can also be utilized for his business activities and the same will lie unutilized if the same is deposited with the court. Hence the suit may be numbered.”

4.The learned counsel for the revision petitioner submitted that the above endorsement only means that the plaintiff has to deposit in the Court and acknowledgment to that effect be filed. The plaintiff re-presented the suit on 25.03.2022 and thereafter, the suit was taken on file on 28.03.2022 on the condition that on the first date of hearing, the balance sale consideration should be deposited in the Court.

5.It is trite law that, in order to prove the readiness of the plaintiff, he need not jingle the coins before the Court. It is sufficient if readiness is shown by proving that he is a man means and that he has always been ready to perform his part of contract. Admittedly, these things can be looked into only at the time of trial without insisting the plaintiff that the balance sale consideration should be deposited at the time of first hearing itself. Since the law does not require that the plaintiff should deposit the balance sale consideration, even before the decree is passed, the order of the learned trial Judge to that effect is not valid under the eye of law.



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6. Accordingly, the Civil Revision Petition is allowed and the docket order dated 28.03.2022 made in O.S.No.190 of 2022 is hereby set aside. No Costs. Consequently, connected Miscellaneous Petition is closed.

09.06.2022

Index : Yes/No
Speaking Order : Yes / No
vkr

To

1. The Principal District Judge,
Tiruppur.
2. The Section Officer,
VR Section, Madras High Court,
Chennai.



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R.N.MANJULA, J.,

vkr

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