



C.R.P.(NPD) No.1861 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2022

CORAM : JUSTICE N.SESHASAYEE

C.R.P.(NPD) No.1861 of 2021
and CMP.No.14507 of 2021

Manikandan

... Petitioners / Petitioner

Vs.

Selvi

... Respondent / Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 06.03.2021 passed in I.A.No.3 of 2021 in A.S.No.75 of 2016 by the Principal District Judge, Salem, and enlarge the time granted to deposit the original sale deed registered as document No.1149 of 1998, on the file of the Sub Registrar of Veerapandi.

For Petitioner : Mr.Adarsh Subramanian
for Mr.Sudhakar
For Respondent : Mr.S.P.Yuvaraj

ORDER

The revision petitioner herein is the plaintiff in O.S.No.47 of 2015 on the file of the Principal Sub Court, Salem, which he has laid for specific



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performance of a sale agreement, coupled with an alternate relief of refund of amount which the plaintiff has paid the defendant.

2. The trial Court has granted a decree for refund of the advance amount, whereas dismissed the suit as concerning the relief for specific performance. Aggrieved by the same, the plaintiff has preferred first appeal in A.S.No.75 of 2016 before the Principal District Court, Salem. The first appeal came be dismissed, however it directed the defendant to deposit the advance amount in the Court within the time frame stipulated by it, and also directed the plaintiff to deposit the original title deed that was left with him by the defendant at the time when he entered into the agreement, within one month from the date on which the defendant complies with his part of the condition.

3. The defendant deposited the said sum, but the plaintiff opted to file second appeal in S.A.No.637 of 2018. That came to be dismissed on 18.12.2018. Thereafter, on 07.03.2019, the plaintiff filed a memo before the District Court to enable him to deposit the original title deed, and also an application for withdrawing the advance amount deposited by the



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defendant. While so, the defendant has taken out an application in I.A.No.1 of 2020, for withdrawing the advance amount that he had deposited, on the ground that the plaintiff did not deposit the title deed as stipulated in the first appeal judgment, and that he has forfeited the said amount.

4. The plaintiff has also filed an application in I.A.No.3 of 2021, for enlarging the time for depositing the original title deed. This came to be dismissed by the impugned order, and the plaintiff challenges it in this revision.

5. Heard both sides. It stands to reason that the plaintiff who feels aggrieved by the judgment of the first appellate Court and opted to prefer a second appeal and hence has chosen to withhold the original title deed with him, it would have been appropriate for him to move either the first appellate Court, or this Court when he moved the second appeal and sought leave of the Court for the purpose. That it was not done, need not let to alter the situation. Be that as it may, if the defendant were to insist for forfeiture of advance amount, then it is going to affect the equation which this Court has decided for balancing the equities when the suit was decided



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right from the trial Court till this Court. Ultimately, the money and title deed must be exchanged and the Court is a medium through which this exchange ought to take place.

6. This Court therefore allows this revision, set aside the order in I.A.No.3 of 2021 in A.S.No.75 of 2016 and directs the Principal District Court, Salem to receive the original title deed within a period of fifteen days from today, upon which, the learned Principal District Judge, Salem is directed to issue a cheque for the advance amount with all accrued interest if any to the plaintiff. Necessarily, I.A.No.1 of 2021 shall have to go, and the learned Principal District Judge is directed to pass appropriate orders on the same.

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

15.03.2022

Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking order

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Note : Issue order copy on 18.03.2022



WEB COPY

To.:

The Principal District Judge
Salem.



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N.SESHASAYEE.J.,

ds

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