



C.R.P.No.3213 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.R.P.No.3213 of 2022
and C.M.P.No.17097 of 2022

1.K.Sekar

2.M.Sagunthala

.. Petitioners

Vs.

Murugesan

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, pleaded to strike off the plaint in O.S.No.13 of 2021 on the file of Sub Court at Unthangarai, Krishnagiri District.

For Petitioners : Mr.K.Krishnan

For Respondent : No Appearance

ORDER

This Civil Revision Petition has been filed by the revision petitioners to strike out the plaint in O.S.No.13 of 2021 on the file of the Sub Judge, Unthangarai, Krishnagiri District.

2. The respondent herein filed a suit for specific performance of the



C.R.P.No.3213 of 2022

agreement dated 05.04.2013. The defendants have filed the above revision for rejection of the plaint on the ground as per the terms of agreement time fixed for performance was only two years and the suit was filed after expiry time fixed for performance on 07.01.2021 beyond the period of three years limitation prescribed under first limb of the Article 54 of the Limitation Act.

3. The perusal of the typed set of papers and the plaint would suggest that the plaintiff pleaded a subsequent endorsement made by the 1st revision petitioner on 05.12.2017, after receiving a portion of the balance sale consideration. In these circumstances, this Court is not inclined to entertain the revision filed to strike out the plaint in O.S.No.13 of 2021.

4. It is a settled law in cases where there is effective remedy available to a person applying for revision before the regular Civil Court, this Court is not entitled to exercise its supervisory power available under Article 227 of the Constitution of India and it is relevant to refer to the case in ***Virudhunagar Hindu Nadargal Dharma Paribalana Sabai versus Tuticorin Educational Society*** reported in ***(2019) 9 SCC 538***, in this regard. As per law laid down in above case law, when effective remedy is available before regular Civil Court under C.P.C.,



C.R.P.No.3213 of 2022

there is a near total bar for exercise of supervisory jurisdiction under Article 227 of the Constitution of India. Hence, this Court is not inclined to exercise the supervisory jurisdiction to strike out the plaint in O.S.No.13 of 2021. Therefore, I am not inclined to entertain the revision. However, it is open to the revision petitioners to file an appropriate application for rejection of the plaint, if so advised. If any such application is filed, the same shall be considered by Court below without being influenced by any of the observations made by this Court in this revision. With these observations, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10.10.2022

Index: Yes/ No
Speaking Order / Non-Speaking Order
jai

To

The Sub Court,
Uthangarai, Krishnagiri District.



WEB COPY



C.R.P.No.3213 of 2022

S.SOUNTHAR, J.

Jai

C.R.P.No.3213 of 2022

10.10.2022