



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2023

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CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

**C.R.P.(PD)No.2637 of 2018
and C.M.P.No.15811 of 2018**

M/s.N.Selvaradjalou Chetty Trust
Represented by its Chairman and Estate
of Late Padmini Chandrasekanour
Represented by H.B.N.Shetty
First Floor, Armenian Street
Chennai-600 001.
Now represented by S.Kalyanam
Having Office at No.6/20, North Beach Road
Chennai-600 001.

... Petitioner

(Mr.S.Kalyanam has been substituted as Trustee
instead of Mr.H.B.N.Shetty vide order of this Court
dated 10.07.2023 in C.M.P.No.14065 of 2021)

Vs.

- 1.K.Sekar
- 2.R.Murugan
- 3.Anusuya @ Muniammal
- 4.Ananthu Marie Josephine Lamark
- 5.Perlious Liyouthey
- 6.Prema
- 7.Union of India
Represented by Chief Secretary
Government of Puducherry
Puducherry-1.



8.The District Registrar
Registration Department
Government of Puducherry
Kamaraj salai, Saram
Puducherry-605 613.

9.The Sub Registrar
Registration Department
Oulgaret, Puducherry.

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 25.07.2018 made in I.A.No.189 of 2013 in O.S.No.73 of 2012 on the file of the Principal District Court, Puducherry.

For Petitioner	: Mr.P.Chandrasekar
For R1	: Mr.N.Jayakumar
For RR4 & 5	: No appearance
For RR7 to 9	: Ms.D.Jayarani Govt. Advocate (Pondicherry)

ORDER

Heard the learned counsel for the petitioner and the learned counsel for the 1st respondent and learned Government Advocate appearing for the respondents 7 to 9. I have carefully gone through the records.

2. The civil revision petitioner is the 1st defendant, 1st respondent is the plaintiff and the respondents 2 to 9 are the defendants 2 to 9 in O.S.No.73 of 2012. The said suit is for specific performance of contract of agreement of sale entered into between



the plaintiff and defendants. The agreement was entered on 19.08.2004. On that very day, the 1st defendant entered into a power of attorney in favour of the 2nd defendant.

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The plea of the 1st defendant was that after the disposal of the case in A.S.No.78 of 2006 on the file of the II Additional District Court, Puducherry, they will execute the sale deed. However, despite the demands made by the plaintiff, the sale was not executed, constraining him to file a suit for specific performance. Taking advantage of the disposal of the appeal suit, pending the proceedings, the defendants alienated the property to the third parties. Therefore, the plaintiff also sought for the relief of permanent injunction and for declaration of three sale deeds dated 05.12.2003 executed as null and void.

3. To this suit, an application was filed by the 1st defendant in I.A.No.189 of 2013 under Order VII Rule 11 of C.P.C., for rejection of plaint. The ground on which the plaint was sought to be rejected, was that the suit for specific performance is not maintainable against the Trust, because the Trust property will have to be sold only on the basis of public auction.

4. According to the plaintiff, the Civil Court has no jurisdiction to grant a decree for specific performance, though they have entered into an agreement of sale. The trial Court dismissed the application for rejection of plaint. Against which, the present Civil Revision Petition has been presented by the 1st defendant.



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5. Rejection of plaint must be tried only on the basis of the averments made in the plaint. The factum that the agreement was entered into between the plaintiff and defendants is not denied. The factum that the defendants had agreed to execute the sale deed after the disposal of the civil proceedings is also not denied. It is also not denied that the amounts were received under the agreement and were retained by the defendants till the suit was presented. Even through the reply notice, the money that was received from the plaintiff was not returned.

6. The trial Court has rightly appreciated the position that the issue raised by the defendants is a mixed question of law and fact and cannot be dealt with separately. Nonetheless, it has held that the validity of the agreement will be gone into separately at the time of trial. The order of the trial Court does not require any interference, as it is appreciated the position of law correctly and has held that the suit is not barred by any law. There is a cause of action for the suit, consequently, the plaint cannot be rejected.

7. In fine, the Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

10.07.2023
(2/2)

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

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To

CRP(PD)No.263



1. Union of India

Represented by Chief Secretary
Government of Puducherry
Puducherry-1.

2. The District Registrar
Registration Department
Government of Puducherry
Kamaraj salai, Saram
Puducherry-605 613.

3. The Sub Registrar
Registration Department
Oulgaret, Puducherry.

4. The Principal District Judge, Puducherry.



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CRP(PD)No.263



V.LAKSHMINARAYANAN,J.

Kj

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(2/2)