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CRP Nos.2920, 2923 and 2924 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2023

CORAM:

THE HON'BLE Mrs.JUSTICE **V.BHAVANI SUBBAROYAN**

**Civil Revision Petition Nos.2920, 2923
and 2924 of 2023 & C.M.P.No.18072 of 2023**

N.Palanivelu ... Petitioner in all the petitions

Vs.

1. S.Shanthamani
2. S.Chandrasekar
3. R.Poogodi ... Respondents in all the petitions

Civil Revision Petitions filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 21.06.2023 made in I.A.Nos.20, 19 and 21 of 2022 in O.S.No.274 of 2018 respectively on the file of learned II Additional District Judge, Tiruchengode and allow the present Revision Petitions.

For Petitioner : Mr.KMC. Arunmohan

For Respondents : Mr.N.Manokaran for R1

COMMON ORDER

Since the issues involved in the present Revisions and the parties are one and the same, they are taken up together and a common order is being passed.

2. The brief facts of the case is as follows:-



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(i) The petitioner, who is the plaintiff has preferred O.S.No.274 of 2018 against the respondents / defendants to execute the sale deed in favour of the petitioner after receiving balance sale price of Rs.10,00,000/- , failing which the petitioner may be permitted to have the sale deed executed through the process of court, in alternatively, to direct the defendants to return a sum of Rs.18,49,000/- with subsequent interest also at the rate of 9% p.a and permanent injunction. Pending suit I.A.Nos.16 and 17 of 2022 was filed by the petitioner to recall and permit the petitioner to produce the documents filed along with connected petition I.A.No.17 of 2022. The said petitions were dismissed on 21.04.2022.

(ii) Further, the petitioner, again filed I.A.Nos.19, 20 and 21 of 2022 to reopen petitioner's side evidence for the purpose of sending summons to the Sub Registrar, Tiruchengode to produce documents; to recall 1st respondent (DW1) for the purpose of confronting DW1 with documentary evidence to prove that she has uttered falsehood during the cross examination; to issue summons for the attendance of Sub Registrar Office, Tiruchengode and produce the documents described in the petition hereto. The said petitions were dismissed by an order dated 21.06.2023. As against the same, the petitioner has come up with these Revisions to set aside the said common order.

3. The learned counsel for the petitioner would submit that the court



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below have not considered the case in a proper perspective and the court below misconstrued the prayer sought for in the present petition in par with earlier filed applications in I.A.Nos.16 and 17 of 2022. Further, the court below had not appreciated that the petitioner due to his poor memory power has forgot himself that he had filed an objection letter dated 19.11.2018 to SRO, Tiruchengode and had adduced wrong evidence, thereby pleaded to set aside the order passed by the court below.

4. Per contra, the learned counsel for the respondents submits that the court below has considered all the documents, evidence and submissions and passed an order dismissing the petition, which does not require any interference by this Court, thereby pleaded to dismiss the petition.

5. Heard the learned counsel on either side and perused the documents placed on record.

6. It is seen that the petitioner, as a plaintiff, filed a suit in O.S.No.274 of 2018 for specific performance based on a alleged sale agreement dated 01.08.2012, i.e., after a lapse of six years. The 1st respondent filed written statement on 23.07.2019 and 13.10.2020 and the respondents 2 and 3 have also filed written statement in the year 2020.



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Issues were framed and the advance hearing petition was filed after covid lockdown. The petitioner proceeded to file proof affidavit on 19.09.2021 and the 1st respondent filed CRP No. 1993 of 2021 for speedy disposal of the suit and the same was ordered to be disposed of within four months. On 23.11.2021, PW1 to PW3 were examined and posted for respondents / defendants' side witness. On 29.11.2021, the 1st respondent / 1st defendant filed I.A.Nos.12 and 13 of 2021 for reopening petitioner / plaintiff's side witness and recalling P.W.2 and P.W.3 for cross examination, the said I.As, were dismissed on 16.12.2021. Subsequently, Civil Revision Petition Nos.62 and 65 of 2022 was filed and the same was allowed on 17.02.2022 directing the 1st defendant to cross examine PW2 and PW3 on 31.03.2022 itself and suit was directed to be disposed within a period of two months thereon. That apart, the petitioner filed I.A.nos.16 and 17 of 2022 to recall PW1 and to mark certain document and the same was dismissed on 21.04.2022.

7. Admittedly, the claim of the petitioner is that the 1st respondent has entered into an agreement with the petitioner vide agreement of sale dated 01.08.2012 on the subject property and subsequently, the 1st respondent sold the same to the third parties. Further, the claim of the petitioner is that he seeks to reopen his side and other side witness to



establish that there were contradictory statements made by the respondents / defendants and he intends to bring it to the knowledge of this Court that the respondents have been telling lies and making contradictory statements.

8. It is pertinent to point out that recalling of 1st respondent / 1st defendant witness is only to prove that she has uttered false statement during cross examination.

9. Upon considering the facts and circumstances of the case, this Court is of the view that there is no necessity for reopening the petitioner's side evidence for the purpose of sending summon to the Sub-Registrar, Tiruchengode to produce the document, which is the alleged communication between the Registrar and the petitioner. These are all post filing of the petition and there is no pleading, as such, made in the plaint and the said communications are after filing of the written statement. The petitioner / plaintiff's submission that these are all facts to be brought to the knowledge of the court, are not acceptable, because the petitioner ought to have filed an application immediately when the new facts came into picture regarding the sale and registration of fresh sale deed by 3rd parties, by way of filing amendment petition, however, instead of adopting an appropriate procedure, the petitioner has been waiting for so many



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years to issue summon to the Registrar to prove his case. Besides the above, the petitioner has to prove his case that there was an agreement of sale and not by calling for the documents from the Registrar, which are not necessary to decide the issue of specific performance.

In view of the above, the present Civil Revision petitions are dismissed. Consequently, connected miscellaneous petition is closed. No costs.

17.08.2023

Index:Yes/No
Internet:Yes/No
Speaking / Nonspeaking order
ssd

To

The II Additional District Judge,
Tiruchengode



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V.BHAVANI SUBBAROYAN J.

ssd

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