



C.R.P.No.73 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.R.P.No.73 of 2023
and
C.M.P.No.546 of 2023

Amudha @ Amudhavalli

...

Petitioner

Vs

1.Jegadeeswari

2.Deivanai

3.Punitham

4.Padmavady

5.Kumudavalli

6.Sathish

...

Respondents



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Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India seeking direction to set aside the fair and Decretal order passed in I.A.No.1730 of 2022 in O.S.No.149 of 2021 dated 29.08.2022 on the file of the Principle District Judge, Pondicherry and allow the said application by allowing the present Revision Petition.

For Petitioner : Mr.P.Satheesh Kumar

ORDER

The Civil Revision Petition is filed challenging the fair and decretal order dated 29.08.2022, passed in I.A. No.1730 of 2022, in O.S. No. 149 of 2021. The revision petitioner is the 4th defendant in the suit and the first respondent instituted a suit for specific performance.

2.During the pendency of the suit, the revision petitioners/4th defendant filed an Interlocutory Application in I.A. No.1730 of 2022, under order 7 rule 11(d) and (a) of CPC, for rejection of the plaint. The learned counsel for the petitioner mainly contended that the suit for specific performance was instituted based on the agreement for sale and the e-stamp



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made in the agreement for sale is defective, and on that ground, the plaint is to be rejected.

3.The grounds taken in this regard is hyper-technical which is to be considered along with the facts and circumstances pleaded by the parties in the suit. Certain procedural mistakes cannot be a ground for rejecting the plaint. For invoking the provisions under Order 7 Rule 11, Court has to consider the plaint as a whole and not the cause of action or certain procedural or other defects in any one of the documents. The plaint as a whole if considered, the suit for specific performance is entertainable, and thus, the issues raised between the parties have to be adjudicated on merits and based on the documents and evidences available.

4.The Trial Court has made a finding that the relief sought in the Interlocutory Application is to be considered at the time of trial. This Court does not find any infirmity in respect of the said finding and the parties are at liberty to adjudicate the issues on merits and in accordance with the law.



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WEB COPY 5. Accordingly, the civil revision petition stands **dismissed**. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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11.01.2023

Speaking Order

Internet : Yes

Index: Yes

Neutral Citation: Yes

Copy to:

Principle District Judge, Pondicherry.



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S.M.SUBRAMANIAM, J.

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