



C.R.P.No.3545 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2023

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

C.R.P.No.3545 of 2022

and

C.M.P.No.18861 of 2022

S.Daniel

... Petitioner

Vs.

K.S.K.Balamurugan

... Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Decree and Judgement made in I.A.No.171 of 2022 in O.S.No.7 of 2019, dated 16.08.2022 on the file of the II-nd Additional District Judge, Chidabaram, Cuddalore District.

For Petitioner : Mr.C.Prakasam

For Respondent : M/s.Vijaya Lakshmi



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ORDER

The Civil Revision Petition has been filed to set aside the fair and decretal order dated 16.08.2022 passed in I.A.No.171 of 2022 in O.S.No.7 of 2019. The revision petitioner is the defendant and the respondent instituted a suit for permanent injunction.

2. The petitioner filed an Interlocutory Application in I.A.No.171 of 2022 under Order 7 Rule 11 to reject the plaint. The Trial Court adjudicated the issues and formed an opinion that the ground regarding limitation raised by the revision petitioner is untenable since the revision petitioner made an endorsement on 08.06.2015 regarding the receipt of a sum of Rs.4 lakhs. Based on the said endorsement made by the revision petitioner on 08.06.2015, the Interlocutory Application to reject the plaint was dismissed by the Trial Court.

3. The learned counsel for the petitioner states that the agreement was entered into between the plaintiff and the defendant on 10.11.2012 and therefore, the suit is time barred. With reference to the subsequent



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endorsement made by the revision petitioner on 08.06.2015, the learned counsel for the petitioner states that it is a forged one and cannot be relied upon.

4. However, these aspects are to be established by way of evidence and through documents. This Court cannot form an opinion whether the said endorsement is made fraudulently or otherwise. When there is a triable issue and the revision petitioner made an endorsement in the said agreement on 08.06.2015, then the Trial Court has rightly formed an opinion that the issues raised in this regard are to be adjudicated by conducting a trial.

5. This Court does not find any infirmity or perversity in respect of the findings made by the Trial Court and thus, the Civil Revision Petition is devoid of merits and stands **dismissed**. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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02.01.2023

Index: Yes
Internet: Yes
Speaking Order



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S.M.SUBRAMANIAM.J.,

sha

To

1.II-nd Additional District Judge,
Chidabaram, Cuddalore District.

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02.01.2023