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C.R.P(MD)No.219 of 2



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2023

CORAM

**THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN
THILAKAVADI**

C.R.P(MD)No.219 of 2023
and
C.M.P(MD)No.1034 of 2023

S.Mariselvam

... Revision Petitioner/Petitioner/
Defendant No.2

Vs.

P.Ramalakshmi

...Respondent/Respondent/
Plaintiff

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order in I.A.No.692 of 2022 in O.S.No.99 of 2022 dated 25.11.2022 on the file of the learned District Munsif, Kovilpatti, Thoothukudi District.

For Petitioners	:Mr.S.Saravanan
For Respondent	:Mr.M.Prabu

ORDER

The Civil Revision Petition is preferred by the revision petitioner/defendant as against the fair and decreetal order, dated 25.11.2022 passed in I.A.No.692 of 2022 in O.S.No.99 of 2022, on the file of the District Munsif Court, Kovilpatti, Thoothukudi District.



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2. According to the revision petitioner, the respondent/plaintiff has filed the above suit in O.S.No.99 of 2022 to declare the sale Document No. 1456/2014 and Doc.No.1327/2017 as null and void and also sought for the relief of permanent injunction against the defendants not to disturb the plaintiff's peaceful possession and enjoyment in the suit property. While so, the petitioner has filed an application in I.A.No.692 of 2022 to reject the plaint by stating that there is no cause of action to file the above suit and therefore, the suit is liable to be rejected.

3. The respondent/plaintiff resisted the averments made in the petition by stating that the sale deed executed by the plaintiff in favour of one Sethuramalingam was not a sale deed, but only a security deed for the hand loan borrowed by the plaintiff. The defendants 1 to 3 are the legal heirs of the said Sethuramalingam and since they disturbed the plaintiff's possession over the suit property, the respondent/plaintiff was constrained to file the above suit.

4. However, the trial Court, considering the averments made in the petition and the arguments advanced by the respective counsel, dismissed the petition in I.A.No.692 of 2022. Against which, the present Civil Revision Petition is preferred by the revision petitioner/defendant.



5.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the materials available on record.

6.On perusal of the averments made in the plaint and in the written statement, it is found that the plaintiff seeks for a declaration to declare the sale deed executed in favour of one late Sethuramalingam as null and void claiming that he never intended to sell his property and it was only a security deed executed in pursuant to the loan borrowed from him. Since the defendants were attempting to disturb the plaintiff's peaceful possession, the above suit was filed. In the written statement, it is averred that the above sale deed executed by the plaintiff was not for a loan transaction and the plaintiff only with an intention to sell the property, executed the sale deed. The trial Court took into consideration the averments made in the plaint and in the written statement, rightly came to the conclusion that either the issues raised in the pleadings or in the matters of fact, which could be decided only after recording the evidence let in by the respective parties. Therefore, there is no perversity or infirmity in the order passed by the trial Court.



7.However, considering the facts and circumstances of the case, this Court directs the learned District Munsif, Kovilpatti, Thoothukudi, to dispose the matter on merits and in accordance with law, within a period of six months from the date of receipt of a copy of this order.

8.With the above observation, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.07.2023

NCC:Yes/No
Index:Yes/No
Internet:Yes/No

To
1.The District Munsif Court,
Kovilpatti, Thoothukudi District.
2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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K.GOVINDARAJAN THILAKAVADI, J.

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