



C.R.P(MD).No.694 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P(MD).No.694 of 2023

and

CMP(MD)No.3219 of 2023

S.Selvarani ... Petitioner/Petitioner/1st Defendant

Vs.

1.Elizabeth Rani

2.Sahaya Mary ... Respondents 1 & 2/Respondent 1 & 2/
Plaintiffs

3.The Sub Registrar,
K.Sathanur Sub Registrar's Office,
K.Sathanur,
Tiruchirappalli.

4.The District Registrar,
Cantonement,
Tiruchirappalli-1.

5.The State of Tamilnadu,
Rep by its District Collector,
Collector Office Road,
Tiruchirappalli-1.

... Respondents 3 to 5/Respondent3 to 5/
Defendants 2 to 4

6.Sampooranathammal

7.Singaravelu

8.Murugesan



C.R.P(MD).No.694 of 2023

9.Ramamoorthy

10.Kaliamoorthy

11.Revathy

12.Pushbavalli

13.Alagammal

14.Neelamani

15.Manikkam

... Respondents 6 to 15/Respondents 6 to 15/
Defendants

PRAYER:- This Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order of the learned Principal District Munsif, Tiruchirapalli, dated 16.12.2022 in I.A.No. 2 of 2001 in O.S.No.2047 of 2006.

For petitioner : Mr.VR.Shanmuganathan

ORDER

This petition has been filed to set aside the fair and decreetal order of the learned Principal District Munsif, Tiruchirapalli, dated 16.12.2022 in I.A.No.2 of 2001 in O.S.No.2047 of 2006.

2.The petitioner is the first defendant in O.S.No.2047 of 2006 on the file of the learned Principal District Munsif, Tiruchirapalli. The suit has been filed by the respondents 1 & 2 herein for a mandatory injunction to direct the



petitioner herein to execute a sale deed pursuant to an alleged sale agreement dated 23.03.2003.

3.The learned counsel for the petitioner fairly concedes that the trial is over and that the suit is otherwise ready for being argument. It is however submitted that the suit for mandatory injunction is barred under law in view of Section 41(h) of the Specific Relief Act. That apart, the learned counsel for the petitioner has relied upon the decision of this Court rendered in **S.Periyasamy Vs D.Rajasekar** reported in **2015 2 CTC 480** wherein it has been held that a suit for mandatory injunction would not lie. It is submitted that the respondent should have filed a suit for specific performance for paying appropriate Court fee in stead of filing a suit for mandatory injunction. It is further submitted that the Court below erred while dismissing the petition under Order VII Rule 11 on 16.02.2022 in I.A.No.2 of 2021 in O.S.No.2047 of 2006 made several observations touching merit rendering the final arguments in O.S.No.2047 of 2006.

4.I have considered the arguments advanced by the learned counsel for the petitioner.



5.I am of the view that the petitioner would have been justified in filing the application for rejecting the plaint immediately after the plaint was filed and before the conclusion of trial. Although, a plaint can be rejected at any stage of the proceedings by the Trial Court, the fact remains that the suit is of the year 2006. There is enormous lapse of long period of time to initiate the proceedings to have the plaint rejected under Order VII Rule 11 of CPC. The trial is also over.

6.Therefore, the application filed for rejecting the plaint has been rightly dismissed. The application was unwarranted. The Trial Court however ought to be circumspect and cautious while dismissing the application for rejecting the plaint. Therefore, the present Civil Revision Petition is liable to be dismissed. At the same time, the Trial Court ought not have been expressed its opinion on merit while dismissing the application filed by the petitioner under Order VII Rule 11 of CPC.

7.The learned Principal District Munsif, Tiruchirapalli, is therefore, directed to dispose O.S.No.2047 of 2006 as expeditiously as possible preferably within a period of 6 months from the date of receipt of a copy of this order without getting influenced by any observation made in the



C.R.P(MD).No.694 of 2023

impugned fair and decreetal order dated 16.12.2023 in I.A.No.2 of 2021. All questions raised on merits and law regarding the maintainability of the suit are left open to be canvassed before the Trial Court at the time of final argument.

8.The present Civil Revision Petition is dismissed with the above observation. No costs. Consequently, the connected miscellaneous petition is closed.

15.03.2023

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

To

- 1.The Principal District Munsif,
Tiruchirapalli.
- 2.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

dss

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