



C.R.P(MD)No.1338 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.06.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.1338 of 2023

and

CMP(MD)No.6656 of 2023

B.Muruganandan	...Petitioner/Petitioner/1 st Defendant
	Vs.
1.M.Thaayumanasamy	...Respondent/1 st Respondent/Plaintiff
2.Ramesh	... Respondent/2 nd Respondent/ 2nd Defendant

PRAYER: Civil Revision Petition is filed under Section 115 of CPC, to call for the records and set aside the fair and decreetal order dated 18.02.2023 in I.A.No.1 of 2021 in O.S.No.657 of 2018 on the file of the Principal Sub Court, Dindigul, and allow this Civil Revision Petition.

For Petitioner : Mr..H.Lakshmi Shankar

ORDER

This petition has been filed to set aside the fair and decreetal order passed by the Principal Sub Court, Dindigul, in I.A.No.1 of 2021, dated 18.02.2023.

2. The petitioner is the first defendant in O.S.No.657 of 2018 on the file of the Principal Sub Court, Dindigul. By the impugned order



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dated 18.02.2023, the Principal Sub Court, Dindigul, has dismissed I.A.No.1 of 2021 filed by the petitioner for rejection of plaint, under Order VII Rule 11 of CPC.

3.The specific case of the petitioner is that the suit has been filed for a declaration based on the alleged oral sale and the suit is clearly barred under Section 54 of the Transfer of Property Act. It is further submitted that on 23.04.2010, the first respondent/plaintiff himself had written a letter to the petitioner stating that the petitioner's lessee has not paid rent for a period of 3 years and therefore, the first respondent/plaintiff was ready to pay the rent to the petitioner. It is further submitted that the proceedings initiated by the first respondent is abuse of Court proceedings.

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

5.Although, the petitioner's submission that the suit is clearly barred under Section 54 of the Transfer of Property Act may be meritorious, such submission can be entertained only at the time of trial



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before the Trial Court. However, while disposing the Interlocutory Application filed under Order VII Rule 11 of CPC, the Court is not expected to look into the evidence or the averments in the written statement. It was only concerned to the ground stipulated in Order VII Rule 11 of CPC. That apart, in the facts and circumstances, peculiar to the case, the Court can always mould the relief for restitution of any amount advanced by the respondent. Therefore, there is no merits in the submission of the learned counsel for the petitioner. The impugned order does not call for any interference.

6.Considering the above, this Court is inclined to dismiss the Civil Revision Petition.

7.With the above direction, this Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is closed.

No costs.

12.06.2023

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



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To

- 1.The Principal Sub Court,
Dindigul.
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

dss

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