



C.R.P.(MD)No.2578 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.10.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.2578 of 2023
and
C.M.P.(MD)No.13379 of 2023

Muthukumar

... Petitioner/
Defendant

Vs.

Vimalan

... Respondent/
Plaintiff

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to strike off the suit in O.S.No.59 of 2023 on the file of learned Sub Court, Eraniel by allowing the above said Civil Revision Petition.

For Petitioner : Mr.C.Ezhilarasu

ORDER

The Civil Revision petition has been filed seeking orders to strike off the plaint in O.S.No.59 of 2023, pending on the file of the Sub Court, Eraniel.



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2. The respondent has filed the suit in O.S.No.59 of 2023 for specific performance on the basis of the oral agreement alleged to have been entered into between the revision petitioner and the respondent on 12.02.2023 and for permanent injunction. Subsequently, though the respondent was ready and willing to pay the amount, the revision petitioner has failed to execute the sale deed and hence, he was constrained to file the above suit for specific performance.

3. The main contention of the revision petitioner is that there is a statutory bar for filing the suit. If that be so, it is a ground for filing an application under Order 7 Rule 11 C.P.C. for rejection of the plaint before the trial Court.

4. Without approaching the trial Court for rejection of the plaint, the revision petitioner has chosen to approach this Court directly by invoking Article 227 of the Constitution of India. Since the alternative remedy is available to the revision petitioner, the question of invoking Article 227 of the Constitution of India does not arise at all. Hence, this Court concludes that the revision is devoid of merit and the same is liable to be dismissed.



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5. In the result, this Civil Revision Petition is dismissed. However, the revision petitioner is at liberty to file an application under Order 7 Rule 11 C.P.C. before the concerned Court for rejection of the plaint. Consequently, connected Miscellaneous Petition is closed. No costs.

09.10.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

1. The Sub Court,
Eraniel.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Order made in
C.R.P.(MD)No.2578 of 2023
and
C.M.P.(MD)No.13379 of 2023

Dated : 09.10.2023