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C.R.P.No.235 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.235 of 2021
and
C.M.P.No.2206 of 2021

Ammani ... Petitioner

Vs.

Shanmugam ..Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order and decree dated 09.03.2020 in I.A.No.338 of 2018 in O.S.No.125 of 2015 on the file of Sub-Court, Ginjee Villupuram District.

For Petitioner	: M/s.R.Rajarajan
For Respondent	: Not ready in notice

ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below dismissing the application filed by the petitioner seeking withdrawal of the suit with liberty to file a fresh suit on same cause of action.

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2. The petitioner herein filed a suit for declaration of title and recovery of possession on the ground that she purchased the suit property from the respondent on 25.03.2008. In the plaint, it was clearly averred by the petitioner that though respondent sold the property to her on 25.03.2008, he failed to hand over the possession. Therefore, she was constrained to file a suit for declaration of title and recovery of possession.

3. Now, the instant application has been filed on the ground as if the petitioner is in possession of the suit property in pursuance of the sale deed. She signed earlier pleadings prepared by the Advocate without knowing the contents of the same. The present application has been dismissed by the Court below on the ground that petitioner after asserting that the respondent/defendant failed to hand over the possession at the time of sale is not entitled to turn around that she is in possession of the property under the sale deed. The Court below also observed that there is no formal defect in the suit to enable the petitioner to maintain the present application.



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4. In the plaint averment, the petitioner clearly stated that she purchased the property from the respondent/defendant on 11.03.1996 and the respondent/defendant was refusing to hand over the possession of the suit property and hence, she was constrained to file the present suit seeking declaration of title and recovery of possession.

5. Having taken a plea that the possession of the property was not handed over to her on the date of sale, it is not open to the petitioner to claim that she is in possession of the property. The present application filed by the petitioner is only an attempt to withdraw the earlier admission made by her with regard to the possession of the suit property.

6. Therefore, the Court below rightly dismissed the application on the ground that there is no formal defect in the suit and accordingly, I do not find anything to interfere with the findings rendered by the Court below.



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7. Accordingly, this Civil Revision Petition stands dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

29.01.2024

Index : Yes / No
Internet : Yes / No
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To

The learned Sub-Judge, Ginjee, Villupuram District.



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S.SOUNTHAR, J.

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