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C.R.P.(PD).No.397 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.397 of 2021

and

C.M.P.No.3413 of 2021

Manikandan

... Petitioner

VS

R.Subramanian

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the Fair and Decreetal Order dated 20.01.2021 made in I.A.No.2 of 2021 in O.S.No.221 of 2020 on the file of Principal Subordinate Judge, Kanchipuram.

For Petitioner : Ms.Mithreyi Kasthurirangan
for Mr.Harishankar

For Respondent : Mr.Sunny Sheen
for M/s.V.Srimathi



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ORDER

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2. The respondent herein filed a suit seeking cancellation of the Registered Settlement Deed dated 09.03.2020 executed by him in favour of the petitioner and for consequential permanent injunction restraining petitioner/defendant from interfering with his possession based on invalid gift.

3. In the plaint averment, it was stated by the respondent as follows:-

“The plaintiff had been paying money only out of sympathy and confidence in the month of March, 2020, the defendant prepared a document and brought it for the plaintiff's signature. The plaintiff did not bother to read the document and he was in the midst of work. The plaintiff was shocked to learn it was a settlement deed in respect to a portion of property wherein the factory runs. Unfortunately the defendant had taken the



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document in respect of area wherein the factory is running and described the lay of the property wrongly. The document itself suffers from the vice of mis description and lacks consensus.”

4. Therefore, according to the respondent/plaintiff, the document prepared by the petitioner/defendant was presented and he signed it without reading the document. It is also stated by the respondent that the document suffers from the vice of mis description and lack of consensus.

5. It is settled law that at the time of considering the application filed under Order 7 Rule 11 of the Civil Procedure Code, the Court is governed by the averments found in the plaint and plaint documents and Court is not entitled to consider the defence raised by the defendant. The Settlement Deed alleged executed by the respondent was questioned by him mainly on the ground that he signed the document without knowing contents (without reading the same). It was also stated by him that the document was bad for lack of consensus. Whether he signed the documents after knowing the contents and whether there was consensus ad idem or not is a question of fact, which has to be gone into at the time of trial. Therefore, the Court below



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rightly exercised its discretion by dismissing the application for rejection of
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plaint.

6. Accordingly, I do not find any irregularity or illegality in the order passed by the Court below and as a consequence, the Civil Revision Petition stands dismissed. No Costs. Consequently, the connected civil miscellaneous petition is closed.

09.01.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To

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The Principal Subordinate Judge,
Kanchipuram.



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S.SOUNTHAR, J.

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