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C.R.P. (PD) .No.1515 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.1515 of 2023

and

C.M.P.No.9986 of 2023

1.Mallikinnisa

2.M.Siddiq @ Abu Baker

.. Petitioners

Vs.

Nizamuddin @ M.Mohammed Marzock

.. Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed in unnumbered I.A.SR.No.7242 of 2022 in O.S.No.166 of 2016 by the learned Principal District Judge, Kancheepuram at Chengalpattu dated 09.12.2022 and allow this Civil Revision Petition.

For Petitioners : Mr.G.Ilamurugu

For Respondent : Mr.G.Mohan



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ORDER

This Civil Revision Petition arises against the order passed by the learned Principal District Judge, Chengalpattu in unnumbered I.A.SR.No.7242 of 2022 in C.O.S.No.166 of 2016.

2.C.O.S.No.166 of 2016 is a suit for recovery of money to a tune of Rs.1,66,28,266/- together with interest at the rate of 24% per annum and costs. The cause of action for the suit arose on 22.11.2013, when the plaintiff had paid a sum of Rs.2,12,00,000/- to the 1st defendant, who had also executed an unregistered sale deed in favour of the plaintiff. Later on, a sum of Rs.28,28,800/- had been paid by the 1st defendant to the plaintiff. As the whole amount did not fructify, criminal proceedings were initiated against the revision petitioners. They had filed an affidavit before this Court during the hearing of CrI.O.P.No.16057 of 2014, agreeing to repay the entire remaining amount in 20 instalments.

3.The 1st defendant had also issued cheques for each of the instalment. As the cheques had bounced, the plaintiff was constrained to present a suit. This suit is not based on the unregistered sale deed executed by the 1st



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defendant in favour of the plaintiff but on the basis of dishonour of cheques which has arisen subsequently. This is clear case that the plaintiff has not claimed the entire expenditure of Rs.2,12,00,000/-. But, taking into consideration the payment that has been made by the 1st defendant to the plaintiff, he has restricted his claim to Rs.1,66,28,266/-.

4.In this suit, the defendants took out an application that the sale deed executed by the 1st defendant in favour of the plaintiff on 22.11.2013 has to be impounded. This petition was dismissed by the learned Judge holding that an unregistered sale deed is not a sale deed and hence, the question of receiving the said document or impounding the same does not arise.

5.Challenging the same, the present Civil Revision Petition has been filed by the petitioners.

6.Heard Mr.G.Ilamurugu, learned counsel for the petitioners and Mr.G.Mohan, learned counsel for the respondent.



7.Mr.G.Ilamurugu, would vehemently contend that the sale deed being an unregistered document, the same cannot be received without it being impounded in terms of Section 33 of Stamp Act. However, on going through the plaint, I am able to visualize that the plaintiff has not presented the sale deed executed on 22.11.2013. The suit is not based on the sale deed and he has instituted it on the basis of the subsequent cause of action which in fact is the dishonour of the cheques and the undertaking that was given by the defendants before this Court. As rightly pointed out by the learned Principal District Judge unless and until the sale deed is registered, it will not get any validity. In fact, if the sale deed had been registered, the plaintiff would not have presented the suit at all.

8.I do not find any reasons to take a different view from the learned Principal District Judge, Chengalpattu.

9.Accordingly, the Civil Revision Petition is dismissed. The order passed in unnumbered I.A.SR.No.7242 of 2022 in O.S.No.166 of 2016 dated 09.12.2022 stands confirmed. The learned Judge is requested to expedite the



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trial of the suit and dispose of the same within a period of three (3) months

from the date of receipt of a copy of this order. Consequently, the connected

Miscellaneous Petition is closed. No costs.

28.06.2024

krk

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

To

The Principal District Judge,
Kancheepuram at Chengalpattu .

V.LAKSHMINARAYANAN, J.



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