



WEB COPY



C.M.P.No. 17401 of 2024

in

A.S.Sr.No. 55184 of 2024

R.SUBRAMANIAN, J.

AND

C.KUMARAPPAN, J.

Leave is sought for by the petitioner to challenge the judgment of the IV-Additional District and Sessions Judge, Coimbatore made in O.S.No.490 of 2012. The said suit was filed for specific performance by the 1st respondent against the 2nd respondent based on an agreement dated 07.06.2007. The suit has been decreed.

2. It is the contention of the petitioners that they are entitled to a share in the suit property. The scope of a suit for specific performance has been thoroughly misunderstood by the petitioner. In a suit for specific performance, the Court does not go into the question of title. It is the only question that is decided is whether the plaintiff is entitled to specific performance as per the agreement of sale. If the Vendors' title is defective, it is for the Vendee to work out his remedies against the persons who claim title as against the agreement Vendor. We cannot in an appeal against a decree for specific performance go into the question of title. In the case on



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AND
C.KUMARAPPAN, J.

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hand, the petitioners are claiming that they are co-sharers of the property. It is open to them to work out their remedy in the manner known to law. Hence, we do not see any reason to grant leave. This petition is therefore, rejected.

3. Since we have rejected the appeal in the SR stage, the entire Court fee paid on the memorandum of appeal will be refunded to the appellant.

(R.S.M., J.) (C.K., J.)
13.11.2024

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