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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2024

CORAM:

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

C.R.P. No. 2707 of 2024
and
C.M.P.No.14308 of 2024

M. Rajinikanth

.. Petitioner

Versus

1. R.Dharmalingam
2. Minor. D. Mogith Vishnu
3. Minor.D.Ananya
(Respondents 2 and 3 are Minors represented
by their natural guardian Father first respondent).
4. L.Kumaresan

... Respondents

Civil Revision Petition has been filed under Article 227 of Constitution of India, 1950, praying to set aside the docket order dated 13.02.2024 passed in O.S.Sr.No.204 of 2024 on the file of the Hon'ble Principal District Court, Tiruppur.

For Petitioner : Mr.Balaji Thirumoorthy

ORDER

This Civil Revision Petition has been filed seeking to set aside the docket order dated 13.02.2024 passed in O.S. Sr. No.204 of 2024 on the file of the Principal District Court, Tiruppur.



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2. The petitioner, as plaintiff, had filed a suit in O.S.No.137 of 224 before the Principal District Court, Tiruppur. The impugned order dated 13.02.2024 has been passed stating that the suit is ordered to be taken on file against D1 alone while deleting D2 to D4 from the array of parties. The plaintiff also was directed to delete prayer no.2, and on such compliance, the case would be made over to the file of II Additional District Court, Tiruppur. Aggrieved over the same, the present Civil Revision Petition filed.

3. The contention of the petitioner is that in the plaint, it is clearly averred that the first defendant received a loan from the plaintiff during the year 2021. At the time of availing the loan, the first defendant entrusted the original documents of title to the plaintiff and assured to get back the documents after the entire loan amount is paid. Later it came to light that to escape the repayment of the loan received from the plaintiff, the first defendant and the minors 2 and 3 defendants have executed a sale deed in favour of the fourth defendant and they are enjoying the suit property notwithstanding the loan amount paid by the plaintiff. Considering the same, to set aside the said sale deed executed by the defendants 1 to 3 in favour of fourth defendant as null and void the plaint was filed. In the plaint, the plaintiff has filed document No.15 , the sale deed registered as document No.7745/2021 dated 09.12.2021, executed by the defendants 1 to 3 in favour of the fourth



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defendant. In such circumstances, deleting the second prayer that is to declare the sale deed dated 09.12.2021 in favour of the fourth defendant as null and void would not arise is not proper. If the said prayer is deleted, then the purpose of filing the suit itself would get defeated.

4. Considering the circumstances in which the order was passed on 13.02.2024 is set aside. It is seen that the petitioner had in the plaint as well as documents clearly makes out a case against first defendant and minor defendants 2 and 3 who have executed the sale deed in favour of the fourth defendant and hence, the defendants 2 to 4 are necessary parties.

5. Considering the submissions made and on perusal of the material, this Court directs the learned Principal District Court, Tiruppur to take the plaint of the petitioner / plaintiff on file against all defendants, with consequent prayer. Accordingly, the order dated 13.02.2024 is set aside. This Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

01.08.2024

Index : Yes/No

Internet : Yes/No

Speaking order/Non speaking order

Neutral Citation : Yes/No

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M.NIRMAL KUMAR, J.

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To

The Principal District Court,
Tiruppur.

C.R.P.No.2707 of 2024

01.08.2024