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C.R.P.No.1695 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.1695 of 2021

and

C.M.P. No.13109 of 2021

A. Syed Ali S/o. S. Syed Ahamed Basha

... Petitioner

Vs.

1. S. Meganathan S/o. R. Sarangapani

2. ICICI Home Finance

Debt Service Management

represented by its Managing Director

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the fair and decreetal order of the learned III Assistant Judge, City Civil Court, Chennai dated 08.09.2020 made in I.A. No.9032 of 2018 in O.S. No.134 of 2018.

For Petitioner

: Mr. Cuba Bharathi.D



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For Respondents : Served notice.

ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below rejecting the appeal filed by the petitioner.

2. The petitioner herein filed a Suit in O.S. No.134 of 2018 on the file of the learned III Assistant City Civil Judge, Chennai seeking recovery of Rs.5,25,000/- from the 2nd respondent. He also sought for injunction restraining the 2nd respondent/1st defendant bank from vacating the petitioner till the payment of Rs.5,25,000/- by the 1st respondent / 2nd defendant. The 1st respondent herein filed an application for rejection of a plaint and the same was partly allowed in respect of the prayer for injunction.

3. The Trial Court found that the decree for injunction prayed for by the petitioner/ plaintiff was barred and aggrieved by partial rejection of the plaint in respect of the injunction prayer, the petitioner filed an appeal in ASSR No.1031 of 2021 on the file of the Principle Judge, City Civil Court, Chennai. The 1st Appellate Court had taken a view that allowing of the petition in respect



of injunction prayer would not amount to rejection of the plaint and the same would amount to striking of the portion of pleadings by invoking Sections 6 to 16 of Code of Civil Procedure. Therefore, the 1st Appellate Court came to the conclusion that the order impugned in the appeal would not amount to decree as it is not an order rejecting the plaint.

4. As rightly pointed out by the 1st Appellate Court, allowing of the application filed by the 1st respondent in respect of the relief of injunction shall be treated only as an order striking out the pleading under Order VI Rule 16 of C.P.C. It cannot be treated as rejection of plea as the entire plaint has not been rejected. In such circumstances, the said order cannot be treated as decree within the meaning of **Section 2(2) of C.P.C.**

5. Therefore, I do not find any error in the order passed by the First Appellate Court.

6. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.



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To
The III Assistant City Civil Judge, Chennai.

S.SOUNTHAR, J.

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