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C.R.P.Nos. 2747, 2750 & 2752 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2024

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.Nos. 2747, 2750 & 2752 of 2023

and

C.M.P.Nos. 16950, 16945 & 16951 of 2023

1. S.Veera Ragavan
2. S.Gopalasubramaniyan @ Ravi
3. S.Akila
4. S.Seethalakshmi

... Petitioners in
all C.R.P.s

-Vs-

1. M/s. Vishwa Keerthi Housing Enterprises,
Partnership Firm
rep. by its partners
W.R.Muralidharan
R.Kalyanasundaram

2. W.R.Muralidharan
3. R.Kalyanasundaram

... Respondents in
all C.R.P.s

Prayer in C.R.P.No. 2747 of 2023 : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 22.02.2023 made in I.A.No.2 of 2020 in O.S.No.6520 of 2018 on the file of XVII Addl. City Civil Court, Chennai.

Prayer in C.R.P.No. 2750 of 2023 : Civil Revision Petition is filed under



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Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 22.02.2023 made in I.A.No.2 of 2020 in O.S.No.6528 of 2018 on the file of XVII Addl. City Civil Court, Chennai.

Prayer in C.R.P.No. 2752 of 2023 : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 22.02.2023 made in I.A.No.2 of 2020 in O.S.No.6529 of 2018 on the file of XVII Addl. City Civil Court, Chennai.

For Petitioner in

all C.R.P.s

: Mr.Nissar Ahamed,

Senior Advocate for

Mrs.Kowser Sulthana I.

COMMON ORDER

Challenging the impugned fair and decretal order dated 22.02.2023 passed in I.A.No. 2 of 2020 in O.S.No. 6520 of 2018, in I.A.No.2 of 2020 in O.S.No. 6528 of 2018 and in I.A.No. 2 of 2020 in O.S.No.6529 of 2018 passed by XVII Addl. City Civil Court, Chennai respectively, the Revision Petitioners/defendants have preferred these Civil Revision Petitions.

2. Heard the learned counsel for revision petitioners and perused the



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materials available on record.

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3. The revision petitioners are the petitioners in applications filed I.A.Nos.2, 2 and 2 of 2020 and the defendants in the suits in O.S.Nos. 6520, 6528 and 6529 of 2018. The respondents/plaintiffs filed a suit against the revision petitioners/defendants for the relief of specific performance and other consequential relief. On receipt of notice, the revision petitioners/defendants filed three applications in I.A.Nos.2, 2 and 2 of 2020 in O.S.Nos.6520, 6528 & 6529 of 2018 praying to reject the plaint under Order VII Rule 11 of C.P.C. respectively.

4. The contention of revision petitioners/defendants is that the 1st plaintiff is admittedly an unregistered firm and not registered as contemplated under Sec.58 and 59 of Indian Partnership Act. Therefore, the suit as such is not maintainable as there is a statutory bar under Sec.69 of the Act. Sec.69(2) of the Indian Partnership Act defines as follows :-

“Sec. 69 (2) No suit to enforce a right arising from a contract shall be instituted in any Court by or on behalf of a firm against any third party unless the firm is registered and the persons suing are or have been shown in the Register of Firms as partners in the firm.”



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By invoking the said proposition, the learned counsel for revision petitioners would argue that the 1st respondent/plaintiff has no locus standi to file the suit as it is an unregistered firm. Therefore, the suit is liable to be rejected. But, the trial judge without appreciating the said legal proposition erroneously dismissed the petition filed by them. Hence, they prayed to allow these Civil Revision Petitions.

5. The learned counsel for respondents/plaintiffs would submit that the suit filed by plaintiff is for the relief of specific performance arising out of joint venture agreement. Therefore, the suit as such is maintainable. The registration of firm is not required to be enclosed in the suit and the relief is claimed only under the Transfer of Property Act and not under the Indian Partnership Act and the same was rightly appreciated by the trial judge, which needs no interference. Hence, he prayed to dismiss these Civil Revision Petitions as no merit.

6. Admittedly, on perusal of records, the suit was filed for the relief of specific performance by the respondents/plaintiffs as per the terms of joint venture agreement between the plaintiffs and defendants and knowingly well, these revision petitioners/defendants also entered into an agreement with the plaintiffs that it is an unregistered firm. So, on a bare perusal of suit,



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the issue involved in the suit is whether the plaintiff is entitled for the relief of specific performance of contract based upon the joint venture agreement dated 06.10.1999 and supplementary agreement dated 10.10.2001. Hence, there is no issue involved in the suit under the Indian Partnership Act. Therefore, Sec.69 of Indian Partnership Act is not a criteria for registration of firm, which was rightly appreciated by the trial judge, which needs no interference. Accordingly, these Civil Revision Petitions are dismissed as no merit. However, liberty is granted to the revision petitioners to raise all their defence during trial before the trial court. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

10.06.2024

Index : Yes/No
Speaking Order : Yes/No
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To

XVII Addl. Judge, City Civil Court, Chennai.

T.V.THAMILSELVI, J.

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