



CRP No.5054 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRP No.5054 of 2023

Pradeep Alexander

... Petitioner

Vs.

Sathyanarayana Rao

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order in IA No.4 of 2023 in OS No.40 of 2023 dated 16.10.2023 on the file of the District Judge, the Nilgiris, Udthagamandalam.

For Petitioner

: Mr.V.Ramamurthy

ORDER

This Civil Revision Petition is filed to set aside the order in IA No.4 of 2023 in OS No.40 of 2023 dated 16.10.2023 on the file of the District Judge, the Nilgiris, Udthagamandalam.



CRP No.5054 of 2023

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2. The petitioner is the plaintiff and the respondent is the defendant.

The petitioner has filed the suit in OS No.40 of 2023 on the file of the District Court of Nilgiris, Uthagamandalam, for specific performance of the sale agreement dated 07.12.2019 against the respondent/defendant. Based on the sale agreement, possession was handed over to the petitioner. Subsequently, the petitioner has spent more than Rs.75 lakhs for repairing and renovation work of that building. Thereafter, the petitioner has filed an interlocutory application in IA No.4 of 2023 for appointing an advocate commissioner with a civil engineer to inspect the property and assess the value of the repair and renovation work carried out by him, which was dismissed by order dated 16.10.2023. Challenging the said order, the petitioner has filed the civil revision petition.

3. Learned counsel for the petitioner submits that possession was given to the petitioner and the petitioner has made some repair and renovation work to the value of Rs.75 lakhs. Therefore, it is necessary to appoint an advocate commission along with a civil engineer to note down the



CRP No.5054 of 2023

repair and renovation work done by the petitioner/plaintiff. The Trial Court, without considering the contentions raised by the petitioner has dismissed the said application. Hence, the order passed by the Trial Court is liable to be set aside.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. The facts reveal that the petitioner is the plaintiff and the respondent is the defendant in OS No.40 of 2023 on the file of the District Judge, the Nilgiris, Udthagamandalam. The petitioner has filed the suit against the respondent/defendant for execution of a sale agreement dated 07.12.2019. The sale consideration was fixed at Rs.2 crores 25 Lakhs and there is a balance of sale price of Rs.1 crore. According to the petitioner, possession was given to him and he made some repair and renovation work to the value of Rs.75 lakhs. Further, the prayer of the petitioner, in the plaint, is only for specific performance of the sale agreement and not



CRP No.5054 of 2023

WEB COPY

claiming repairing charges or the renovation charges. In such circumstances, appointment of an advocate commissioner to inspect the property and to assess the value of the repair and renovation work carried out by the petitioner, with the help of a civil engineer is unwarranted. The Trial Court has rightly dismissed the said application. I find no infirmity in the order passed by the Trial Court as there is no merit in the civil revision petition.

6. In fine, the civil revision petition is dismissed. There will be no order as to costs. Consequently, CMP No.29400 of 2023 is closed. Consequently, CMP No.29400 of 2023 is closed.

08.01.2024

Index: Yes/No
Internet: Yes/No
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CRP No.5054 of 2023

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To
The District Judge,
The Nilgiris, Udhagamandalam



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CRP No.5054 of 2023

V.SIVAGNANAM, J.

(mrn)

CRP No.5054 of 2023

08.01.2024

6 of 6