



WEB COPY



CRP No.102 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRP No.102 of 2024 and
CMP No.506 of 2024

S.Ganesan

... Petitioner

Vs.

P.Kumar

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed in I.A.No.7/2023 in O.S.No.140/2018, dated 26.09.2023 on the file of the Additional District Judge, Fast Track Court, Vellore.

For Petitioner : Mr.T.P.Sekar

ORDER

This Civil Revision Petition has been filed to set aside the order passed by the learned Additional District Judge, Fast Track Court, Vellore. in I.A.No.7/2023 in O.S.No.140/2018, dated 26.09.2023.

2. The brief facts leading to the filing of Civil Revision petition is as

1 of 6



CRP No.102 of 2024

follows:

The petitioner herein has filed the above suit in O.S.No.140/2018 for specific performance of contract, directing the respondent herein/defendant to execute the sale deed in favour of the petitioner and also deliver possession of the suit property, after receipt of the balance sale consideration; and also for permanent injunction, restraining the defendant and his men from any manner encumber the suit property, till the final disposal of the suit.

2.1. Pending suit, the petitioner/plaintiff has filed an application in I.A.No.7/2023, to appoint an Advocate Commissioner to take all the admitted signatures/handwritings of the respondent/defendant namely Ex.P11 along with the admitted signatures, namely Ex.P9 and Ex.P10 from the court and handed over the same to the forensic Science Laboratory for comparison and to obtain report. After hearing both side, the above petition was dismissed on 26.09.2023. Challenging the above order, the present civil revision petition has been filed.

3. The learned counsel for the petitioner/plaintiff submitted that the



CRP No.102 of 2024

WEB COPY

petitioner had purchased two properties from the respondent/ defendant through two sale deeds Ex.P9 and Ex.P10 and the same was admitted by him. However, during cross examination by he petitioner/plaintiff, the respondent/defendant, as DW1, has denied his signature found in Ex.P11, dated 11.08.2014, which was issued by him for receipt of advance amount for the said two plots. Therefore, to disprove the defence taken by the respondent/defendant, The above said documents have to be sent, to obtain report from the Forensic Department. But, without considering the case of the petitioner/plaintiff in proper perspective, the Trial Court has dismissed the application and hence, the impugned order is liable to be set aside.

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

5. On perusal of the plaint and the affidavit filed in the application, it is noticed that the plaintiff has filed the suit for specific performance, to execute the sale deed, in accordance with the sale agreement dated



CRP No.102 of 2024

WEB COPY

14.08.2014, entered into between the petitioner and the respondent. The respondent/defendant has filed written statement, by taking a specific defence that the said registered sale agreement was executed, as a security, for the loan obtained by him from the plaintiff and not other than that. Further, when the respondent himself admitted the sale of two plots vide sale deeds Ex.P9 and Ex.P10, the document dated 11.08.2014 (Ex.P11), stated to have been issued by the respondent for receipt of advance for the said two plots, is no way connected to the suit transaction, because the suit has been filed for specific performance to execute the sale deed in accordance with the sale agreement, dated 14.08.2014. In such circumstances, the prayer of the petitioner for sending the above documents to get expert opinion is unwarranted, as the same is no relevant to decide the issue involved in the suit for specific performance. Further, the records reveals that, earlier, the petitioner has filed I.A.No.2/2022 for the same relief, which was also dismissed on 20.09.2022. In such circumstances, this Court is of the view that the learned Trial Judge has rightly dismissed the application and I find no infirmity to interfere the same. As such, the civil revision petition is



CRP No.102 of 2024

liable to be dismissed.

6. In fine, this Civil Revision Petition is dismissed and the impugned order passed by the Trial Court is confirmed. Consequently, connected miscellaneous petition is closed. No costs.

19.01.2024

Index: Yes/No
Internet: Yes/No
mst

To

Additional District Judge, Fast Track Court, Vellore.



WEB COPY



CRP No.102 of 2024

V.SIVAGNANAM, J.,

mst

CRP No.102 of 2024

19.01.2024