



C.R.P.(MD)No.612 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 19/03/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

C.R.P (MD) No. 612 of 2024

and

CMP (MD) No. 3032 of 2024

M/s.Tamara Leisure Experience Private Ltd.,
Represented through its Head of Finance & Accounts
K.Nagaraju
(M/s.The Bengaluru Tamara Leaser
Experience Pvt. Ltd., The Company
incorporated under Indian Companies
Act, which is represented through
its Managing Director Mr.S.Thangarajan
: Petitioner/2nd Defendant

Vs.

1.Mr.E.Muthukumaran : 1st Respondent/Plaintiff
2.Dr.M.S.Samsudeen Ibrahim : 2nd Respondent/1st Defendant

PRAYER:-Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the order, dated 18/10/2023 passed in IA No.542 of 2022 in OS No.212 of 2020 on the file of the 4th Additional District Judge, Madurai and pass such further or other orders.

For Petitioner : Mr.P.Kavin Prabhu



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O R D E R

WEB COPY This civil revision petition has been filed seeking to set aside the order, dated 18/10/2023 passed in IA No.542 of 2022 in OS No.212 of 2020 by the 4th Additional District Judge, Madurai.

2.The facts in brief:-

The suit in OS No.212 of 2020 was filed by the 1st respondent herein as plaintiff seeking the relief of directing the defendants namely the petitioner herein and the second respondent herein jointly and severally to pay a sum of Rs.55,66,670/- with interest and costs.

3.In the plaint, it has been averred by the 1st respondent/plaintiff that the 2nd defendant is the owner of the Plot No.48 comprised in Survey Nos.25B/4, 25E/5 measuring about 1 Acre and 37 cents situated at Kalavasal in Madurai Town. On the representation made by the 2nd defendant through the 1st defendant, the plaintiff wanted to purchase the property. The 1st defendant insisted him to pay a sum of Rs.50,00,000/- as Earnest Money Deposit. On various dates, Rs.50,00,000/- was paid. It was also acknowledged by the 1st defendant signed by the 2nd defendant's company. The 2nd defendant company through out affirming the act of the 1st defendant. Bona-fidely



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believing the words of 1st defendant, he parted with money. After receiving the money, the defendants started evading the obligations. On that account, the suit is filed.

4.The defendants appeared through Advocate and the petitioner/2nd defendant filed IA No.542 of 2022 seeking an order to reject the plaint. That petition is filed by the 2nd defendant without impleading the 1st defendant as the petitioner with the following averments:-

The 1st defendant did not act on behalf of the 2nd defendant. It is a reputed Multi National Company. The 1st defendant was acting as a Commission Agent. He is not a Power of Attorney or Authorised Agent of the 2nd defendant. He obtained the Xerox copy of the company documents fraudulently and misused the same to the plaintiff. There was no proposal or resolution by the Company to sell the property to the plaintiff. There was no sale agreement between the plaintiff and the 2nd defendant. So, the plaintiff has to either delete the 2nd defendant from the suit or proceed against the 1st defendant by filing a separate suit.



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5.That was resisted by the plaintiff by filing a counter.

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6.After hearing both sides, the trial court was of the view that there is no cause of action for the suit and more-over, partial rejection of the suit is not permissible as per the statement of law. Since triable issues are involved, no ground is made out.

7.Against which, this civil revision petition is preferred.

8.Heard the learned counsel appearing for the petitioner.

9.As set out in the preamble portion, this petition is filed by the petitioner is that the 1st defendant was neither the Authorised person nor Power of Agent, staff, employee of the petitioner.

10.According to the petitioner, the 1st defendant namely the 2nd respondent herein in this matter has no authority to enter into any sale agreement in respect of the property, which belongs to the petitioner with the third parties; By misusing the document copies, it



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appears that he has entered into so called sale agreement with the plaintiff.

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11.Except these factual grounds, no other legal ground has been raised by the petitioner to satisfy the requirement under Order 11 Rule 7 CPC.

12.Whether the 1st defendant acted on behalf of the Company namely the petitioner herein cannot be a matter for consideration by this court, it is purely a factual issue, which got to be tried to its logical conclusion.

13.Even though elaborate discussion has been made by the trial court by extracting the pleadings in an extensive manner, I am of the considered view that nothing more is required to be addressed in this matter.

14.Now what the petitioner want is that so far as the petitioner is concerned, the plaint must be rejected and the suit may be proceeded against the 1st defendant either in the present suit or in a separate suit.

15.So, the question, which arises for consideration is whether partial rejection of the plaint is permissible.



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16.As observed by the trial court, partial rejection of plaint is not permissible and this position is well settled. The trial court has referred the judgment of the Hon'ble Supreme Court in **2022-1-L.W.263**. On the sole ground, I find that the revision preferred by the petitioner is not maintainable. So, the order passed by the trial court requires no interference.

17.In the result, this civil revision petition is **dismissed** in the admission stage itself. No costs. Consequently, connected Miscellaneous is closed.

19/03/2024

Index:Yes/No
Internet:Yes/No
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To,

- 1.The 4th Additional District Judge,
Madurai.
- 2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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