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C.R.P.(MD)No.660 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 15/03/2024

CORAM

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

C.R.P(MD)No.660 of 2024

Mrs.Regina : Petitioner/Plaintiff

Vs.

Mr.R.Prabhakar : Respondent/Defendant

PRAYER:- Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the order of return, dated 20/02/2024 by the Principal District Judge, Theni, in unnumbered Filing No.OS/50/2024 CNR No.TNTHO10002242024 on the file of the Principal District Judge, Theni and direct him to take the suit on file.

For Petitioner : Mr.D.Malaichamy

O R D E R

This civil revision petition has been filed seeking to set aside the order of return, dated 20/02/2024 by the Principal District Judge, Theni, in Unnumbered Filing No.OS/50/2024 CNR No.TNTHO10002242024 on the file of the Principal District Judge, Theni and direct him to take the suit on file.



The facts in brief:-

The plaint was presented by the petitioner before the trial court stating that the defendant is the owner of the property. He entered into a sale agreement with her husband for a sale consideration of Rs.20,00,000/-. It was reduced into writing, on 12/11/2019. An advance amount of Rs.16,00,000/- was also paid. In the description of the suit property, the boundaries differ from the partition deed, dated 31/08/2018. The plaintiff's husband agreed that it must be rectified by the defendant. Later, the plaintiff's husband died, on 15/05/2012 due to corona. Even though, the husband of the plaintiff is ready and willing to perform his part of contract, the defendant avoided. The plaint was presented seeking the relief of specific performance and in the alternative to refund the advance amount of Rs.16,00,000/- with 12% interest till the plaint and thereafter @ 7.5%.

3.The plaint came to be returned by the trial court questioning the valuation and pointing out other defects. In spite of the compliance and explanation, the trial court returned the plaint stating that the plaintiff seeks return of the advance amount with interest @ 12% from the date of agreement till the plaint. So the plaint



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has to be valued under section 6(2) of the Tamil Nadu Court Fees and Suit Valuation Act, 1955.

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4. Aggrieved over the same, this civil revision petition has been preferred.

5. Heard the learned counsel appearing for the petitioner.

6. We will straightaway go to section 6(2) of the Tamil Nadu Courts Fees and Suit Valuation Act, which is relied on by the trial court. But section 6(2) of the Act does not attract the present factual circumstances. What is sought in the plaint is not more than one relief. So, sub section 6(3) will apply.

7. Section 6(3) reads as follows:-

"6. Multifarious suits:-

(1).....

(2)...

(3) *Where a suit embraces two or more distinct and different causes of action and separate reliefs are sought based on them, either alternatively or cumulatively, the plaint shall be chargeable with the aggregate amount of the fees with which*



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plaints would be chargeable under this Act if separate suits were instituted in respect of the several causes of action:

Provided that, where the causes of action in respect of the reliefs claimed alternatively against the same person arise out of the same transaction, the plaint shall be chargeable only with the highest of the fees chargeable on them."

8. Another ground relied on by the trial court is self-explanatory in nature. Now, what was the highest fee is that he valued the total sale consideration of Rs.20,00,000/- and paid the court fee under section 42 of the Tamil Nadu Court Fees and Suit Valuation Act to the tune of Rs.60,000/-. The total value of the sale agreement is Rs.20,00,000/- and he has paid the court fee on the highest value. So, I find that the opinion of the trial court that only 6(2) of the Act will apply is not proper.

10. For the reason stated above, the civil revision petition is **allowed**. The impugned order of return passed by the trial court is set aside. There shall be a direction to the trial court to entertain and process the plaint filed by the petitioner and proceed in accordance with law. The Registry is directed to return the original



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impugned order to the petitioner so as to re-present the same before the trial court. No costs.

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

The Principal District Judge,
Theni.



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G.ILANGOVAN, J

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