



C.R.P.(MD)No.1188 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 05.09.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.1188 of 2024

and

C.M.P.(MD)No.6783 of 2024

Ganapathiya Pillai(died)

Subbulakshmi

... Petitioner / Petitioner / Defendant

Vs.

Abdul Ali

... Respondent / Respondent / Plaintiff

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair order and decreetal passed in I.A.No.7 of 2024 in O.S.No.104 of 2004 dated 06.03.2024 on the file of the 2nd Additional District Munsif Court, Tirunelveli and allow the appeal and allow I.A.No.7 of 2024 as prayed for.

For Petitioner : Mr.R.J.Karthick

For Respondent : Mr.P.Rajesh



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ORDER

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Heard both sides.

2.The defendant in O.S.No.104 of 2004 on the file of the IInd Additional District Munsif Court, Tirunelveli is the revision petitioner herein. The suit is for declaration and recovery of possession and damages. In the said suit, the revision petitioner filed I.A.No.7 of 2024 for summoning the Secretary, Housing Cooperative Society, Pettai and to examine him as defendant side witness. The court below vide order dated 06.03.2024 dismissed IA on the ground that the petitioner has not explained as to how the evidence of the said witness will help to decide the original suit. The court below has also cited Order 16 Rule 1(2) of C.P.C. The court below had concluded that the defendant had not stated any reasons for summoning the Secretary. In that view of the matter, IA came to be dismissed.

3. As rightly pointed out by the learned counsel appearing for the revision petitioner, the reason set out in the impugned order is not correct. I went through the affidavit filed in support of I.A.No.7 of 2024. In Paragraph No.3, it has been averred that the purchase of the suit property by the plaintiff from Pitchiah Chettiar is contrary to the bylaws of the cooperative society and



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in order to substantiate this defence, the petitioner wants to mark the bylaws through the secretary of the cooperative society. When such a clear reason has been given in the affidavit, I fail to understand as to what made the court below to conclude that the petitioner has not stated any reason. The reasons set out in the impugned order might be wrong. But then, in my view, the petitioner is not entitled to any relief in this civil revision petition.

4. It is seen that Pitchiah Chettiar was a member of the cooperative society and that the suit property was allotted in his favour. Ganapathia Pillai entered into the sale agreement with Pitchiah Chettiar. To enforce the same, he filed a suit for specific performance in O.S.No.696 of 1985 on the file of the Additional District Munsif Court, Tirunelveli. Admittedly, the suit was dismissed. A.S.No.152 of 1997 on the file of the Additional Sub Court, Tirunelveli filed by Ganapathia Pillai was also dismissed. S.A.(MD)No.1915 of 2001 was dismissed by this Court on 21.04.2017. Against which, they preferred the Review Application No.50 of 2020. It was dismissed on 14.12.2020. Against which, they preferred SLP. SLP filed by the revision petitioner was also dismissed by the Hon'ble Supreme Court on 14.09.2018.



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5. In these circumstances, I have to hold that filing of I.A.No.7 of 2024 is only to drag on the proceedings. It is seen that this Court in C.R.P.(PD) (MD)No.2317 of 2018 had already given a direction for disposal of O.S.No.104 of 2024 within six months. This order was passed on 18.07.2023. It is seen that the revision petitioner in the written statement had pleaded that the sale deed standing in the name of the plaintiff is not valid. It is for the revision petitioner to establish the same. The order of dismissal is sustained. The Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

05.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

The 2nd Additional District Munsif Court, Tirunelveli.



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G.R.SWAMINATHAN, J.

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