



CRP(MD).No.2038 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.11.2024

CORAM

THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN THILAKAVADI

C.R.P(MD)No.2038 of 2022

and

C.M.P(MD)No.9324 of 2022

1.Ramani Rose

2.Anthony Rethan Jenifa

: Petitioners/Petitioners/Defendants 1 & 3

Vs.

Thomas Arul Raj

: Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and executable order dated 18.08.2022 passed in the application in I.A.No.3 of 2019 in O.S.No.41 of 2019 on the file of the Additional District and Sessions Court, Padmanabhapuram.

For Petitioners

: Mr.T.R.Jeyapalam

For Respondent

: Mr.S.C.Herold Singh

ORDER

The Civil Revision Petition is preferred against the order passed in I.A.No.3 of 2019 in O.S.No.41 of 2019 dated 18.08.2022 on the file of the Additional District and Sessions Court, Padmanabhapuram.



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2.The factual matrix of the case is that the respondent/plaintiff filed a suit in O.S.No.41 of 2019 for a decree of specific performance based on the sale agreement dated 19.04.2016. Pending suit, the revision petitioners/defendants filed an application in I.A.No.3 of 2019 to reject the plaint under Order 7 Rule 11 of CPC. The said application was resisted on the side of the respondent/plaintiff. The trial Court, in its order dated 18.08.2022 dismissed the said application. Aggrieved by this, the present revision is preferred.

3.The learned counsel appearing for the revision petitioners would submit that the respondent/plaintiff has produced the alleged sale agreement dated 19.04.2016 as Document No.1 along with the plaint. However, the stamp paper for the said agreement shows the date as 25.04.2016, which establishes that the stamp paper was purchased only on 25.04.2016 from the stamp vendor and therefore, the alleged sale agreement could not have been prepared and executed on 19.04.2016, which is prior to the date of purchasing the stamp paper. Therefore, the cause of action stated in the plaint as if the cause of action arose on 19.04.2016 is false. However, the trial Court, without considering the



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above facts, in the impugned order erroneously observed that the agreement is signed in the back date on a post dated stamp paper giving rise to presumption about oral understanding and the further observation of the trial Court that commencement date can be prior to the date of stamping or it can be in future is perverse. Since the stamp paper was purchased only on 25.04.2016, the agreement could not have be executed on 19.04.2016 and therefore, the plainti stating that cause of action arose on 19.04.2016 is utter false. Hence, the impugned order requires interference.

4.On the other hand, the learned counsel appearing for the respondent would submit that even in the plaint, it is mentioned that there was an oral agreement between the parties on 19.04.2016 and a sum of Rs.10,00,000/- received as advance and the said oral agreement was later reduced into writing and therefore, the contention made by the learned counsel appearing for the petitioners cannot be accepted and no interference calls for in the order passed by the trial Court.

5.Heard the learned counsel on either side and perused the materials available on record.



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6. Whether there was an oral agreement between the parties and thereafter it was reduced into writing are matters for adjudication. Suppression of material facts or cause of action is fraudulently stated cannot be a ground for rejecting the plaint. To determine whether a cause of action arose or not, the plaint averments alone has to be looked into before commencement of trial. Hence, the order under revision do not suffer any fundamental error which warrants for interference by this Court. Accordingly, the Civil Revision Petition is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petition is closed.

20.11.2024

Index : Yes / No
Internet : Yes/ No
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To

The Additional District and Sessions
Court, Padmanabhapuram.



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K. GOVINDARAJAN THILAKAVADI, J.,

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