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W.A.(MD)No.1176 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

and

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A.(MD)No.1176 of 2024

and

C.M.P.(MD)No.9074 of 2024

Girijasubramanian

: Appellant

Vs.

1.The District Registrar (Admn),
Office of the District Registrar,
Palani Taluk,
Dindigul District.

2.The Sub-Registrar,
Joint II Sub-Registrar Office,
Palani Taluk,
Dindigul District.

3.R.M.Karthikeyan

4.P.Lakshmanan

: Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent,
praying to set aside the order dated 16.06.2023 made in
W.P.(MD)No.20898 of 2021.



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For Appellant : Mr.S.Ramasundarvijayraj
For Respondents 1 & 2 : Mr.B.Saravanan
Additional Government Pleader
For Respondents 3 & 4 : Mr.B.Vinoth Balan

JUDGMENT

[Judgment of the Court was delivered by **R.SURESH KUMAR, J.**]

This Writ Appeal has been directed against the order passed by the Writ Court dated 16.06.2023 made in W.P.(MD) No.20898 of 2021.

2. There has been a registered sale agreement between the appellant herein and the private respondents in respect of the property at Survey No.118/5 and Old S.No.118/3, New S.No.118/3C at Sukkamanyakkanpatti Village, Palani Taluk, Dindigul District.

3. It is the contention of the appellant / writ petitioner that the very registration of the sale agreement itself is under coercion and threat. Subsequently, a draft sale deed has been preferred and that was directed to be registered on 02.11.2021 by the private respondents which the appellant / writ petitioner has refused.



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4.Subsequently, the appellant / writ petitioner had requested the Registering Authority to cancel the sale agreement dated 13.10.2021. The said request of the appellant / writ petitioner having been considered was rejected by the Registering Authority on 12.11.2021, which was under challenge before the Writ Court.

5.The learned Writ Court having considered the rival claim made by both parties has made the following observation and order which is impugned herein:

“8.The petitioner seeks to quash the impugned order on the ground that she had not known, but she had signed the agreement of sale on 13.10.2021 and that it was only on 25.10.2021 that she had come to know about it. It is also her case that on 01.11.2021, she had lodged a complaint with the Superintendent of Police, Dindigul. Such being the case, there is no explanation forthcoming on the side of the petitioner as to why she had executed the sale deed a day after her complaint being lodged before the Superintendent of Police, Dindigul.

9.Be that as it may, the petitioner has to necessarily establish that she has been induced in executing the document, which was not the document that she has been told that she would be signed. In the instant case, there appears to



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be a discrepancy and even as per the pleadings of the petitioner, a prima facie case of fraud has not been made out. Therefore, this Court is not inclined to entertain the writ petition and consequently, the Writ Petition is dismissed. However, it is well open to the petitioner to file necessary suit in the case, which involves fraudulent documents. No costs. Consequently, connected Miscellaneous Petitions are closed.”

6.Assailing the same, learned Counsel for the appellant / writ petitioner would submit that, insofar as the claim of the registration of the sale deed is concerned, such situation has not arisen as no sale deed was registered or executed by the appellant / writ petitioner. Only with regard to the sale agreement which was registered on 13.10.2021, it was made under coercion and threat and therefore, in order to cancel the said sale agreement registered on the file of the Registering Authority, when request was made that was turned down and when that was questioned before the Writ Court, the learned Judge has made an observation that, there has been no fraud committed on registering the document of agreement for sale. Therefore, that will stand in the way for the appellant / writ petitioner, even to approach the Civil Court to let in evidence and to establish the case. Therefore, to that extent, indulgence should be shown by this Court, learned Counsel contended.



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7.However, learned Counsel for the respondents would submit that, if at all anything has to be established, only the appellant / writ petitioner has to approach the Civil Court to establish the same and since the sale agreement has already been registered, that cannot be unilaterally cancelled by now, stating the reasons as if that it has been executed and registered only under compulsion and threat. That kind of allegation since has been made by the appellant / writ petitioner without any basis or without any evidence, based on such mere allegation alone, the plea of the appellant / writ petitioner cannot be accepted. Therefore, to that extent the finding given by the learned Judge is to be sustained and it does not require interference at the hands of the Division Bench.

8.We have also heard the learned Additional Government Pleader appearing for the official respondents who would submit that, since unilateral cancellation is not possible in law, that plea of the appellant / writ petitioner since has been rejected, that order also has been confirmed by the Writ Court, no grievance can be espoused by the appellant / writ petitioner at this juncture.

9.We have taken note of the rival submissions made by the parties and perused the materials available on record.



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10.Now, the only grievance of the appellant / writ petitioner is that she is ready and willing to go before the Civil Court and to file a civil suit as observed by the learned Judge through the impugned order. The only hindrance to the appellant / writ petitioner is that the finding that has been made in paragraph No.9 of the impugned order to state that in the instant case there appears to be a discrepancy and even as per the pleadings of the petitioner, a *prima facie* case of fraud has not been made out.

11.This finding given by the Writ Court certainly would stand in the way of the appellant / writ petitioner to independently approach the Civil Court by letting in evidence and therefore, to that extent indulgence has been sought for.

12.We do find force in the said contention of the learned Counsel for the appellant / writ petitioner for the simple reason that once the parties are relegated to go before the Civil Court, to establish their right, it is for the Civil Court to take a decision based on the evidence. When that being so, if a finding is given by this Court as if there is no *prima facie* case of fraud, then that would have some repercussion in the ultimate finding to be given by the Civil Court.



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13.Therefore, we are inclined to pass the following order:

“that the order passed by the learned Judge which is impugned herein is to be sustained. Therefore, the parties are to go before the Civil Court to establish their right. If any such civil proceedings is initiated by either of the parties, the findings or observations whatever given by the Writ Court in the order impugned herein, especially in paragraph No.8 & 9 of the order shall not stand in the way to independently decide the merits of the case to be projected by the parties based on the evidence to be let in alone.”

14.With the above observations and clarification, this Writ Appeal stands disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

[R.S.K.,J.] & [G.A.M.,J.]

19.07.2024

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

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MR

ORDER MADE IN

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