



C.R.P.(MD)No.2723 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 05.12.2023

Delivered on : 26.02.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.2723 of 2023
and
C.M.P.(MD)No.14198 of 2023

T.Kannan (died)

1.A.Santhakumari

2.M.Kavitha

3.K.Radhavan

4.Priya

5.R.Arumugham

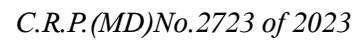
: Petitioners/Petitioners/
Plaintiffs 2 to 6

Vs.

1.Periyasamy

2.P.Prema : Respondents/Respondents/Defendants

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated



For Petitioners : Mr.S.I.Muthiah

For Respondents : Mr.R.Sreenivasan

ORDER

2. The deceased first plaintiff has filed the suit to declare that the sale deed, dated 20.05.2008 executed by the first defendant in favour of second defendant is void, illegal, capricious, arbitrary, invalid and not binding on the plaintiffs and for consequential permanent injunction restraining the defendants and their men from interfering with the plaintiffs' peaceful possession and enjoyment of the suit property.

3. The defendants have filed their written statement. Pending suit, the first plaintiff died and the revision petitioners 1 to 5 being the legal



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heirs of the deceased first plaintiff got themselves impleaded as plaintiffs 2 to 6 and after consequent amendments to the plaint, the defendants have filed additional written statement. Thereafter, the trial was commenced and after examining of plaintiffs side witness P.W.1, the above petition seeking permission to receive the reply statement came to be filed.

4. The revision petitioners/plaintiffs' case is that the defendants have filed their written statement and additional written statement and the same necessitated the plaintiffs to file reply statement; that P.W.1 in her cross examination has categorically denied the receipt of Rs.4,00,000/- by her father and totally denied the issuance of any receipt by him and that the plaintiffs will be put to serious loss and hardship, if the reply statement is not received.

5. The respondents/defendants have filed a counter statement raising serious objections and further stated that the plaintiffs have already filed the petition in I.A.No.4 of 2023 to receive reply statement and the same was allowed on 05.06.2023; that the plaintiffs have not filed another application for filing reply statement; that the defendants in their original



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written statement filed on 09.11.2009 have specifically stated that the plaintiffs agreed to sell the suit properties to the first defendant or to any person he likes for a sum of Rs.4,00,000/-, received the entire consideration of Rs.4,00,000/- from the first defendant and passed a receipt for the same; that the plaintiffs have also executed a registered power of attorney on that day itself to the first defendant to sell the property; that the first plaintiff never denied that he has not received Rs.4,00,000/- from the first defendant and executed a receipt therefor; that subsequently, the suit was dismissed for default and on the application filed by the plaintiffs, the suit was restored to file; that P.W.1 in the proof affidavit has stated that the receipt given by the first plaintiff to the first defendant was forged one and no amount was paid; that P.W.1 in her cross examination would admit that they have not taken any plea about the receipt given by the first plaintiff to the first defendant and that after cross examination of P.W.1, the above application to fill up the lacuna and to drag on the proceedings came to be filed and that therefore, the petition is liable to be dismissed. The learned District Munsif, after enquiry, has passed the impugned order, dismissing the petition.



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6. The main contention of the revision petitioners is that they have to file reply statement disputing the contention of the defendants that the first plaintiff has received a sum of Rs.4,00,000/- and executed a receipt therefor and that since the defendants have taken such a stand, the plaintiffs were forced to file the reply statement.

7. It is not in dispute that the plaintiffs have already filed an application in I.A.No.4 of 2023 on 14.03.2023 to receive reply statement and the same was allowed on 05.06.2023.

8. As rightly contended by the learned counsel for the respondents, the defendants in their original written statement filed on 09.11.2009 have specifically taken a plea that the first plaintiff has agreed to sell the suit property to the first defendant on 15.05.2008 for a sum of Rs.4,00,000/- and received the entire consideration of Rs.4,00,000/- from the first defendant and passed the receipt for the same.

9. Moreover, P.W.1 has filed a proof affidavit alleging that the first plaintiff has disputed the receipt of payment and issuance of receipt



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therefor and that the receipt alleged to have been given to the first defendant was a forged one and in cross examination, he would admit that they have not taken the said plea earlier and that the same would go to show the plaintiffs have sought to receive the reply statement only to fill up the lacuna and the same cannot be permitted.

10. It is pertinent to note that the suit is pending from 2008 onwards for the past more than 15 years; that the defendants have filed written statement as early as on 2004 and additional written statement consequent to the amendment made to the plaint on 12.12.2022 and that the plaintiffs have filed their reply statement on 05.06.2023. The plaintiffs have not offered any reason or explanation for not raising the present plea in the earlier reply statement.

11. On considering the entire facts and circumstances, as rightly observed by the learned trial Judge, the above petition came to be filed only to drag on the proceedings. Hence, the impugned order dismissing the petition filed under Section 151 of C.P.C., to receive the reply statement cannot be found fault with. Consequently, this Court concludes



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that the Civil Revision is devoid of merits and the same is liable to be dismissed.

12. In the result, the Civil Revision Petition is dismissed. Since the suit is pending from 2008, the trial Court is directed to proceed with the trial and dispose of the suit within a period of three months from the date of receipt of copy of this order. Consequently, connected Miscellaneous Petition is closed. No costs.

26.02.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
das

To

- 1.The District Munsif Court, Lalgudi.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

Pre-delivery order made in
C.R.P.(MD)No.2723 of 2023
and
C.M.P.(MD)No.14198 of 2023

Dated : 26.02.2024