



WEB COPY

CRP(PD).No.148 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

CRP.(PD).No.148 of 2025

and

C.M.P.No.1114 of 2025

Mrs.Jayanthi

... Petitioner

Vs.

1.Palanisamy

2.Mrs.Prabhavathi

... Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal orders dated 27.09.2024 in IA.No.2 of 2023 in OS. No.52 of 2023 on the file of the Subordinate Judge Court, Mettupalayam and allow the above CRP.

For Petitioner : M/s.C.R.Prasanan

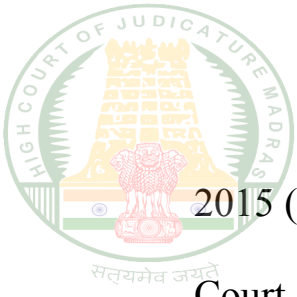
For Respondent : M/s.PA. Sai Govindarajan for R.1

: R.2 – Not ready in notice

ORDER

Challenging the impleadment of the 2nd respondent herein by the plaintiff, the petitioner/defendant is before this Court.

2. The 1st respondent/plaintiff had filed a suit OS.No.685 of



2015 (renumbered as OS.No.52 of 2023) on the file of the Subordinate Court, Mettupalayam seeking a specific performance against the petitioner/defendant on the basis of the alleged registered agreement of sale dated 22.08.2013.

3. It is his case that the total sale consideration was a sum of Rs.3,00,000/- and an advance of Rs.2,00,000/- has been paid by the 1st respondent/plaintiff to the petitioner/defendant. The possession of the property was not handed over to the 1st respondent/plaintiff and the period for the payment of the balance amount was 12 months from the date of the agreement. Since the petitioner/defendant has not come forward to execute the sale deed, the suit has been filed.

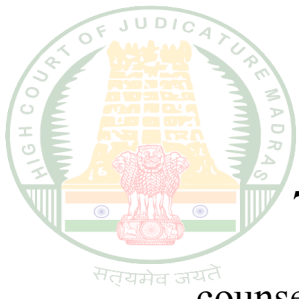
4. A written statement has been filed by the petitioner/defendant. In the written statement, the petitioner/defendant has clearly stated that she is the absolute owner of the suit property and she denied the execution of the agreement of sale. She would contend that she had only borrowed a sum of Rs.2,00,00/- from the 1st respondent/plaintiff for her sister's marriage. At the time of borrowing, her signatures were



obtained on several blank stamp papers, and she was led to believe that only a loan agreement would be drafted, which would be cancelled upon repayment of the amount.

5. An additional written statement has also been filed. In the additional written statement, the petitioner/defendant would submit that as early as on 26.09.2012 an extent of 3 cents and 0.4 sq ft. was sold by her to her sister-in-law Prabhavathi and the alleged sale agreement has been prepared thereafter in respect of the entire property, taking advantage of her illiteracy. The petitioner/defendant therefore, prayed for the dismissal of the suit.

6. On 19.12.2023, the 1st respondent/plaintiff had filed IA No.2 of 2023 to implead the revision petitioner's sister-in-law Prabhavathi in the suit who had purchased the property as early as on 26.09.2012. This petition has been ordered by the learned Subordinate Judge, Mettupalayam despite protest. Challenging the same, the petitioner is before this Court.



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7. Heard the learned counsel for the petitioner and the learned counsel for the 1st respondent and perused the records.

8. The sale in favour of the said Prabhavathi, the 2nd respondent herein, was much prior to the execution of the alleged agreement of sale. Therefore, she is neither a necessary nor a proper party to the proceedings. The Trial Court had erred in impleading her as a defendant to the proceedings, totally overlooking the fact that she is the prior purchaser. Therefore, the Civil Revision Petition is allowed. The order passed by the learned Subordinate Judge, Muttupalayam in IA.No.2 of 2023 in OS.No.52 of 2023 is set aside. No costs. Consequently, the connected Miscellaneous Petition is closed.

04.04.2025

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

1.The Subordinate Judge Court, Muttupalayam.

P.T. ASHA. J.,

(shr)



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