



WEB COPY



C.R.P.(PD)No.953 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :07.04.2025

Coram:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

Civil Revision Petition No.953 of 2025

and

C.M.P.No.5507 of 2025

Suresh,
S/o K.Sadhasivam,
278/A, K.K.P.Street,
Thiruvalluvar Nagar,
Podhupatti Road,
Namakkal 637 001.

.. Petitioner/Petitioner/Plaintiff

/versus/

1.K.Vijayalakshmi,
W/o Kaliappan.

2.Kaliappan,
S/o Rangasamy Gounder
both are residing at
85, Singanallur Cooperative Nagar,
Vellankurichi, Coimbatore.

.. Respondents/Respondents/
Defendants

Civil Revision Petition has been filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order of the III Additional District Judge, Coimbatore, passed in I.A.No.3 of 2024 in O.S.No.463 of 2014, dated 17.02.2025.



WEB COPY



C.R.P.(PD)No.953 of 2025

For Petitioner :Mr.V.K.Vijayaragavan

For Respondents :Mr.K.M.D.Muhilan,

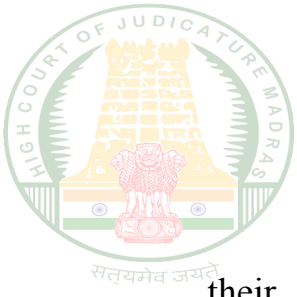
ORDER

The plaintiff has challenged the order passed by the learned III Additional District Judge, Coimbatore in I.A.No.3 of 2024 in O.S.No.463 of 2014, in and by which, the learned Judge has dismissed the application filed by the petitioner to reopen the suit, to summon the second defendant.

2. For ease of understanding, the parties are referred to, as the plaintiff and the defendant, as per their respective ranking in the above suit.

3. The brief facts, which have led to the filing the above civil revision petition are set out below:-

The plaintiff had filed the suit in O.S.No.463 of 2014 seeking specific performance of the contract dated 14.06.2011. It is the case of the plaintiff that in the first week of June 2011, the first defendant and her husband Mr.Kaliappan, the second defendant, had approached the plaintiff to sell



C.R.P.(PD)No.953 of 2025

WEB COPY

their property as the plaintiff was looking to purchase a property at Coimbatore. The first defendant had assured the plaintiff that she had absolute marketable title to the suit schedule property and was in possession of the same. After negotiation, the plaintiff had agreed to purchase the property for a total sale consideration of Rs.55,00,000/-. An agreement of sale was entered into on 14.06.2011 and the plaintiff had paid Rs.50,00,000/- to the defendants as consideration for the sale agreement. The first defendant had also acknowledged the receipt of the same in the sale agreement. The second defendant had signed the document as a witness. The balance sale consideration was payable within a period of three months and the first defendant was required to produce the encumbrance certificate for 24 years. The plaintiff further submitted that the first defendant had entrusted to him the original sale agreement dated 06.12.2010, under which she had purchased the property. The plaintiff is a reputed agriculturist and is working with the Siluvampatti Primary Agricultural Co-operation Society as its President. The plaintiff submitted that he was ready with the balance sale consideration and has been calling



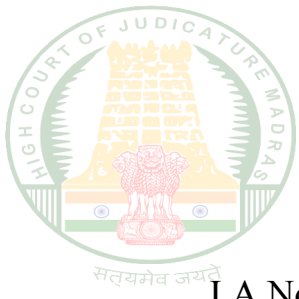
C.R.P.(PD)No.953 of 2025

WEB COPY

upon the first defendant to come and execute the sale deed. However, the first defendant did not comply with the demands. A legal notice dated 01.09.2014 was issued by the plaintiff wherein the plaintiff referred to meeting them in person on 29.08.2014 which also evoked no response. Therefore, left with no other alternative remedy, the plaintiff has come forward with the suit in question.

4. The first defendants had filed a written statement, which was adopted by the second defendant *inter alia* contending that the first defendant never intended to sell the property to anyone and consequently, denied the allegation that the defendants had approached the plaintiff in the first week of June 2011 to sell the property. The receipt for payment of Rs.50,00,000/- was also denied. The defendants further denied having seen the plaintiff. He further submitted that the sale deed was a forged and fabricated document and sought for dismissal of the suit.

5. Therefore, the petitioner earlier had taken out two applications in



C.R.P.(PD)No.953 of 2025

WEB COPY

I.A.No.719 of 2017 and I.A.No.127 of 2018 to reopen the case and to summon the second defendant and the same was declined by the trial Court and subsequently, confirmed by this Court vide order dated 27.10.2017 in C.R.P.No.3914 of 2017. The plaintiff had not challenged this order and therefore, it had become final. However, suppressing this order, the plaintiff/petitioner had obtained an order from the Hon'ble Supreme Court granting liberty to summon the second defendant. Therefore, the petitioner had filed I.A.No.3 of 2024 to reopen the suit and to summon the second defendant. In the affidavit filed in support of the said application, the petitioner/plaintiff had contended that the suit was posted for arguments. Since the Hon'ble Supreme Court had granted liberty to summon the second defendant, the petitioner had come forward with this application.

6. The said application was resisted by the defendant by contending that they had not served with notice in the Special Leave Petition filed before the Hon'ble Supreme Court, and therefore, were unable to participate in the proceedings before the Hon'ble Supreme Court. It is the further

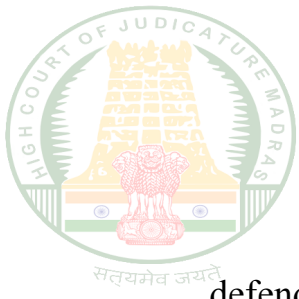


C.R.P.(PD)No.953 of 2025

WEB COPY

contention of the defendants that the liberty granted by the Hon'ble Supreme Court was clarified, inasmuch as it was stated that it should be exercised in accordance with law. The earlier orders passed in I.A.No.719 of 2017 and I.A.No.127 of 2018 were not challenged. The defendants contended that the plaintiff had suppressed the true facts before the Court and therefore, sought for dismissal of the application. The learned III Additional District Judge, Coimbatore, by her order dated 17.02.2025 was pleased to dismiss the application stating that the plaintiff had earlier filed I.A.No.719 of 2017 and I.A.No.127 of 2018 to summon the second defendant and to examine him as witness on the side of the plaintiff. The learned Judge further held that having failed to get an order in the earlier two applications, the petitioner/plaintiff is now precluded from filing this petition once again to summon the second defendant. It is this order which is the subject matter of challenge.

7. The learned counsel for the petitioner relied upon the order of the Hon'ble Supreme Court, which granted him liberty to summon the second



C.R.P.(PD)No.953 of 2025

WEB COPY

defendant. The learned counsel for the respondents/defendants submitted that the earlier orders passed in I.A.No.719 of 2017 and I.A.No.127 of 2018 were not brought to the notice of the Hon'ble Supreme Court.

8. However, this Court is bound by the order passed by the Hon'ble Supreme Court, wherein liberty was granted to summon the second defendant. The order was passed on 29.11.2024 and immediately, thereafter, the petitioner has filed the present interlocutory application on 03.12.2024.

9. The defence to the suit is that the second defendant was having a Real Estate Venture with one K.S.Rangasamy, to whom the original sale deed has been entrusted. It is contended that the present suit is based on the original sale deed, being in the custody of the plaintiff, which according to the defendants, was never returned by K.S.Rangasamy to the second defendant, despite his assurance that it would be returned as and when demanded by the defendants. Since the defendants had placed utmost trust and faith on the said K.S.Rangasamy, they did not insist on its return.



C.R.P.(PD)No.953 of 2025

WEB COPY

Therefore, it is the contention of the second defendant that the second defendant is aware of how the original sale deed come into the custody of the plaintiff. However, this document has been used to create the agreement of sale. The active role of the second defendant in the proceedings has been set out in the written statement. That apart, in light of the order passed by the Hon'ble Supreme Court in the connected matters in this suit, this Court is bound by the order passed by the Hon'ble Supreme Court. Hence, the order dismissing the petition filed by the petitioner to reopen the suit to summon the second defendant would necessarily have to be set aside. Accordingly, this Civil Revision Petition is allowed and the order dated 17.02.2025 made in I.A.No.3 of 2024 in O.S.No.463 of 2014 passed by the III Additional District Judge, Coimbatore, is hereby set aside. Consequently, connected Miscellaneous Petition is closed. No costs.

07.04.2025

ari

Index:yes/no

Speaking order/non speaking order

Neutral citation:yes/no

8/10



WEB COPY



C.R.P.(PD)No.953 of 2025

To

III Additional District Judge, Coimbatore,



WEB COPY



C.R.P.(PD)No.953 of 2025

P.T.ASHA,J.

ari

C.R.P.No.953 of 2025
and
C.M.P.No.5507 of 2025

07.04.2025