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CRP(PD).No.1617 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

CRP.(PD).No.1617 of 2025

and

CMP.No. 9345 of 2025

1.Selvan

2.Kala

... Petitioners

Vs.

C.Thangaraj

... Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order and decreetal order in IA.No.5 of 2022 in O.S.No.118/2022 dated 10.12.2024 on the file of the learned Additional District Judge at Chengalpattu.

For Petitioner : M/s.Ganapathy Thangavel

ORDER

Challenging the dismissal of their application for rejecting the plaint, the defendants 1 and 2 are before this Court.

Brief Facts:-



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2. The respondent/plaintiff had originally filed the suit OS.NO.35/2020 on the file of the Sub Court at Chengalpattu.

Thereafter, the suit was transferred to the file of the Additional District Judge, Chengalpattu, and re-numbered as OS.No.118/2022.

3. The suit was filed seeking recovery of a sum of Rs.15,00,000/- as damages for the delay in completing the construction and also the stoppage of the construction work with effect from 23.03.2019.

4. The respondent/plaintiff's case is that the suit property was purchased by him in the name of his wife under a registered sale deed dated 23.08.2004. The respondent/plaintiff submits that S.M.Sasikumar (3rd defendant), a neighbor of the plaintiff, introduced petitioners/defendants 1 and 2 to the respondent/plaintiff and his wife while constructing his new building. On the assurance of the said S.M.Sasikumar the plaintiff and his wife had entrusted the construction work to petitioners/defendants 1 and 2. The 1st petitioner/1st defendant had agreed to complete the construction work



within a period of 6 months from 09.01.2018. However, contrary to the assurance, the defendants 1 and 2 had not completed the construction and the respondent/plaintiff was constrained to borrow amounts at high rates of interest for paying it to the petitioners/defendants 1 and 2 to continue with the construction.

5. The respondent/plaintiff would submit that on account of this delay on the part of the defendants 1 and 2 he has not been able to even lease out the property and earn an income to settle his monthly EMI.

6. The respondent/plaintiff would submit that due to the non-completion of the construction work by the petitioners/defendants 1 and 2, he had suffered a loss and is therefore entitled to claim compensation. Hence, the suit.

7. The 1st petitioner/1st defendant had filed a written statement in the suit which was adopted by the 2nd petitioner/2nd defendant wherein they have denied the allegations made against them in plaint.



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8. Thereafter, the petitioners/defendants 1 and 2 have come forward with the application to reject the plaint on the ground that the Civil Court had no jurisdiction since a mere reading of the plaint would indicate that it is only the case of deficiency of service which has to be redressed only before the State Consumer Dispute Redressal Forum. They would contend that there is absolutely no written argument evincing the terms of the contract between the plaintiff and defendants 1 and 2 and in the absence of a cause of action, the suit deserved to be dismissed. That apart, they would also contend the plaintiff has no locus standi to file this suit as the suit property is in the name of his wife.

9. The respondent/plaintiff had filed a counter inter alia, denying all the allegations. The respondent/plaintiff would submit that none of the reasons stated in the affidavit filed in support of the petition would constitute a ground for rejecting the plaint.



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10. The application after contest came to be dismissed by the learned Additional District Judge, Chengalpattu. Challenging the same, the petitioners are before this Court.

11. The respondent/plaintiff has clearly set out the basis on which the suit has been filed by him. A mere reading of the plaint clearly shows that there is a prima facie triable case. The respondent/plaintiff has disclosed several events in the plaint which makes out a cause of action. The suit is not only based on deficiency of work but also on account of the fact that there is a breach of agreement between the parties. As regards the locus on the part of the husband to file the suit on behalf of his wife, it is seen that the property has been purchased by him in the name of his wife and he is the person who has engaged the services of petitioners/defendants 1 and 2 on the recommendation of the said S.M.Sasikumar. Therefore, the Trial Court has rightly held that the application for rejecting the plaint is not maintainable.

12. Accordingly, The Civil Revision Petition stands dismissed.



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No costs. Consequently, the connected Miscellaneous Petition is closed.

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(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

1.The Additional District Judge at Chengalpattu.

P.T. ASHA. J.,



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