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CRP(PD).No.4277 of 2024.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 05.03.2025**

CORAM

**THE HONOURABLE Ms. JUSTICE P.T. ASHA**

**CRP.(PD).No.4277 of 2024**

**and**

**CMP.No.23803 of 2024**

M.Sivakumar

... Petitioner

**Vs.**

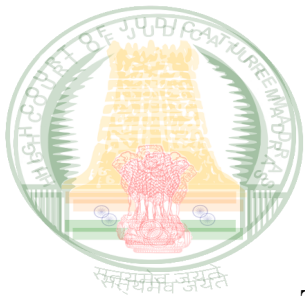
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... Respondent

**Prayer:-** Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order dated 11.09.2024 made in IA.No.1/2024 in OS.No.1069/2022 on the file of the Honourable Sub Ordinate Judge, Katpadi.

For Petitioner : M/s.S.Saranraj

For Respondent : M/s.T.M.Hariharan



CRP(PD).No.4277 of 2024.

## **ORDER**

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The above Civil Revision Petition has been filed challenging the order passed by the Sub Judge, Katpadi in IA.No.1/2024 in OS.No.1069/2022 in and by which the learned Judge had dismissed the application filed by the petitioner for amending the plaint.

2. The brief facts are as follows:-

3.The petitioner herein had filed the suit OS.No.1069/2022 for specific performance of an agreement of sale dated 22.07.2014. When the suit was posted for the defendant's side evidence, The petitioner had filed a petition to amend the plaint to include the alternate relief claiming the refund of advance amount. This petition has been dismissed by the learned Sub Judge, Katpadi on the ground that it is highly belated. Challenging the same, the petitioner is before this Court.

4.Heard the counsel on either side and perused the records.

5.The petitioner/plaintiff had originally filed the suit for specific



CRP(PD).No.4277 of 202.

performance of the agreement of sale dated 22.07.2014 entered into between him and the respondent/defendant. Section 22(1)(b) of the Specific Relief Act would provide that in a suit for specific performance the plaintiff can ask for any relief which also include the refund of earnest money or the deposit paid or made by him. Clause 2 therein clearly stipulates that the relief under Clause A and Clause B of Sub Section 1 can be granted by the Court only if it is specifically claimed. The proviso to Sub Section 2 further reads that if such a claim has not been made in the plaint then at any stage of the proceedings, the Court shall allow the plaintiff to amend the plaint on such terms as may be just for including a claim for such relief.

6. In the instant case, the petitioner/plaintiff has filed the amendment application to include the alternate relief of refund of the advance amount. No doubt, the suit is at the stage of defendant's side evidence. However, considering the language of the proviso to Section 22 (2) of the Specific Relief Act, it is well open to the plaintiff to make such a claim at any stage. Therefore, the rejection of the amendment application on the ground that it is highly belated cannot



CRP(PD).No.4277 of 2024.

be countenanced. Hence, the Civil Revision Petition is allowed and the order passed by the learned Subordinate Judge, Katpadi in IA.No.1/2024 dated 11.09.2024 is set aside. No costs. Consequently, the connected Miscellaneous Petition is closed.

**05.03.2025**

(shr)

Index : Yes/No

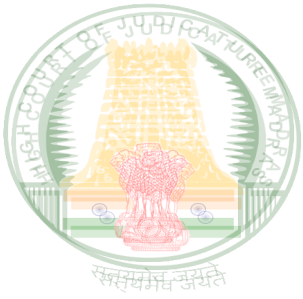
Speaking Order: Yes/No

Neutral Citation : Yes/No

To

1.The Sub Ordinate Judge, Katpadi.

**P.T. ASHA. J.,**



WEB COPY



CRP(PD).No.4277 of 2024.

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