



Crp.No.591 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.02.2025

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THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P.No.591 of 2025

C.M.P.No.3351 of 2025

Ramamirtham

...Petitioner

Vs.

Athilingam

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, pleased to set aside the fair and Final order passed in I.A.No.2 of 2022 in O.S.No.71 of 2020 on the file of Additional District Court, Villupuram, dated 21.06.2024 and to set aside the same and to allow the Civil Revision Petition.

For Petitioner : Mr.A.Sundara Vadhanan

ORDER

Challenging the order passed in I.A.No.2 of 2022 in O.S.No.71 of 2020 by the learned Additional District Judge, Villupuram, the defendant has filed the above Civil Revision Petition.



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2.The suit O.S.No.53 of 2020 was filed by plaintiff/ respondent herein against the defendant for recovery of a sum of Rs.13,00,000 together with interest at 9% per annum. The plaintiff would contend that the above suit is filed for specific performance of an agreement of sale dated 26.09.2018 after receiving a sum of Rs.1,00,00/- which is the balance sale consideration or in the alternative to direct the defendant to pay the sum of Rs.30,00,000/- together with interest at 9% per annum.

3.The defendant has filed another suit O.S.No.71 of 2020 seeking a cancellation of sale agreement dated 26.09.2018. When the defendant was to continue cross examining P.W.1, he has come forward with this application for amending the written statement stating that certain important and essential points have been omitted to be set out in the written statement. The details of the amendment that was sought for has been set out in the affidavit itself and not in the petition. The additions to the written statement was that the plaintiff has never seen the suit property nor is the plaintiff aware of any of the details regarding the property. That apart he is not aware as to whether the suit properties are in different locations or is contiguous to each other etc., These details are sought to



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be added in the written statement based on the part cross examination of P.W.1. In short, application for amendment is sought after the suit has gone to trial. This application was resisted by the plaintiff *inter alia* contending that entirely new facts was sought to be introduced which is not essentially pleaded. The learned Judge considering the application and after taking note of the various judgments held that the proposed amendment would result in an absolutely new case being set up. Further both the suits have been jointly tried and are at this stage of cross examination. At this stage, the amendment could not be granted. This is challenged by the revision petitioner who is the defendant in O.S.No.53 of 2020.

4.Heard the learned counsel appearing for the petitioner and perused the records.

5.In the written statement dated 10.03.2021 the defendant had contended that the agreement was created only as a security for a sum of Rs.13,00,000/- and honored by the defendant from the plaintiff. The agreement of sale was executed on account of the pressure exerted by the plaintiff. The defendant would further submit that he had been repaying the interest without default till the country had come to a standstill on account of the Corona Virus. During this period the



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defendant was without employment and therefore he defaulted in the payment of interest. Taking advantage of the situation the plaintiff has come forward with the allegation that the parties had entered into an agreement of sale that the document was never intended to be acted upon is evident from the fact that possession of the defendant.

6.In the additional written statement that is now sought to be filed the defendant would contend that the plaintiff has no clue about the suit property, its locations, the physical features of the land, whether the lands are contiguous or separate etc. The signature of persons who have signed as witnesses have been obtained after it was executed by the petitioner/defendant. That apart only the sum decreed under O.S.No.71 of 2020 remains unpaid.

7.A mere perusal of the contents of the additional written statement compared with the original pleading clearly set out that it is an entirely new set of facts that has been pleaded by the defendant that too at this stage when the matter is posted for continuation of cross examination of plaintiff. It is nothing but a case of filling up the lacuna. Entirely new case is set up. Therefore, the order of the learned Additional District Judge, Villupuram, does not suffer from any



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perversity.

8. Accordingly, the Civil Revision Petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Internet : Yes/No

Speaking Order/Non Speaking Order

To

The Additional District Court, Villupuram,



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