

Devaraj Vs. Muthuvalli

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Court : Chennai Madurai

Decided On : Apr-01-2016

Judge : The Honourable Ms. Justice V.M. Velumani

Appeal No. : C.R.P(MD)No. 716 of 2016(PD) & M.P.(MD).No. 3368 of 2016

Appellant : Devaraj

Respondent : Muthuvalli

Judgement :

(Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order, dated 11.02.2016, made in I.A.No.815 of 2015 in O.S.No.68 of 2007, on the file of the Sub Judge,Pudukkottai.)

1. This Civil Revision Petition is filed against the fair and decretal order, dated 11.02.2016, made in I.A.No.815 of 2015 in O.S.No.68 of 2007, on the file of the Sub Judge, Pudukkottai.

2. The petitioner is the defendant and the respondent is the plaintiff in the Suit. The respondent filed the Suit in O.S.No.68 of 2007 for specific performance. The petitioner in his written statement denied that he agreed to sell the suit property to the respondent. On the other hand, he stated that he borrowed a sum of Rs.3,00,000/- from the respondent. The respondent insisted the petitioner to execute the agreement of sale and sign in the blank promissory note. The respondent filled up the promissory note as though petitioner borrowed money

from one Palanisamy and filed the suit in O.S.No.60 of 2007 on the file of the learned District Munsif, Thirumayam. The said suit was decreed. Against that decretal order, the petitioner filed appeal in A.S.No.79 of 2014 and the same is pending. After completion of evidence of the petitioner/respondent in the present suit, the petitioner filed an application in I.A.No.815 of 2015 for permission to file additional documents. The respondent resisted the same on the ground that the petitioner has not given any reason for not filing the documents at the time of filing written statement. The learned Judge dismissed the application on the ground that the petitioner has not given any reason for delay in filing the additional documents. Against that order of dismissal, the petitioner has come up with this present Civil Revision Petition.

3. Heard the learned counsel appearing for the petitioner and perused the materials available on record. The learned counsel for the petitioner reiterated the averments made in the written statement and grounds of revision. The respondent filed caveat and there is no representation for the caveator.

4. From the records, it is seen that the petitioner has taken specific defence in the written statement that he did not agree to sell the suit property. On the other hand, the petitioner stated that the respondent is the money lender and the petitioner only borrowed a sum of Rs.3,00,000/- and also repaid a sum of Rs.1,00,000/- towards principal amount and Rs.78,000/- towards interest. The respondent instigated the petitioner to execute an agreement of sale and sign in the blank promissory note at the time of borrowing money. The petitioner is the professional money lender. In view of this specific plea, the petitioner must be given an opportunity, to substantiate his case by filing additional documents sought to be filed. A party to a suit should not be shut down from putting forth his case on merits. In the circumstances, the order of the learned Judge is liable to be set aside and accordingly it is hereby set aside.

5. In the result, this Civil Revision Petition is allowed. No Costs. Consequently, connected miscellaneous petition is closed.