

CRP NO.4078 OF 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDER RESERVED ON : 26 / 09 / 2025

ORDER PRONOUNCED ON : 28 / 11 / 2025

CORAM:

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

CRP NO.4078 OF 2022

AND

CMP NO.21171 OF 2022

N.Kumarasamy ... Petitioner / Petitioner /
1st Defendant

Versus

1.M.Ramasamy ... 1st Respondent /
1st Respondent /
Plaintiff

2.Suganya
3.Subash ... Respondents 2&3 /
Respondents 2&3 /
Defendants 2&3

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, 1950 praying to set aside the Fair and Final Order Order dated September 28, 2022 passed in I.A.No.3 of 2022 in O.S.No.97 of 2002 by the learned Principal Subordinate Judge, Kallakurichi.



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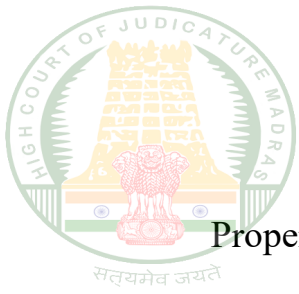
For Petitioner : Ms.D.Jeevitha
for Mr.R.Nalliyappan
For Respondent-1 : Ms.V.Sasirekha
For Respondents 2&3 : Served – No appearance

ORDER

Feeling aggrieved by the Dismissal Order dated September 28, 2022 passed by the learned 'Principal Subordinate Judge, Kallakurichi' ['Trial Court' for short] in I.A.No.3 of 2022 in O.S.No.97 of 2002, the Petitioner therein has preferred this Civil Revision Petition under Article 227 of the Constitution of India, 1950.

2.The Revision Petitioner herein is the First Defendant; the First Respondent is the plaintiff; and Respondent Nos.2 and 3 are Defendant Nos.2 and 3 in the Original Suit in O.S.No.97 of 2002. For the sake of convenience, hereinafter, the parties will be referred to as per their array in the Original Suit.

3.The Plaintiff filed a Suit in O.S.No.97 of 2002 on the file of the Trial Court seeking a relief of Specific Performance of sale agreement dated March 8, 2001, whereby the First Defendant agreed to sell the Suit



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Property in favour of the Plaintiff for a sum of Rs.1,50,000/- and on the same day itself, the Plaintiff paid a sum of Rs.1,20,000/- to the First Defendant as advance. When the Plaintiff tendered the balance sale consideration of Rs.30,000/- to the First Defendant and requested to execute the Sale Deed, the First Defendant refused to do so. Therefore, after exchange of notice, the Plaintiff filed a Suit for Specific Performance.

4.The First Defendant is the father and Defendant Nos.2 and 3 are daughter and son of the First Defendant. The First Defendant filed a written statement in the month of October 2002 wherein he has pleaded that in the event of paying the balance consideration of Rs.1,30,000/-, he is ready to execute the sale deed. Further in the additional written statement dated January 13, 2020 and in the additional written statement dated February 26, 2021, altogether taking a different stand, the first defendant stated that he borrowed a sum of Rs.1,00,000/- from the Plaintiff on March 8, 2001 and the Suit Sale Agreement was executed only for the purpose of loan transactions. He further stated that he is ready and willing to repay the loan amount.



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5. At the time of filing of the Suit, the Defendant Nos.2 and 3 are minors. During the pendency of the Suit, the Defendant Nos.2 and 3 have attained majority. The Third Defendant filed a separate written statement *inter alia* stating that the Suit Property is ancestral property in which the Defendant Nos.2 and 3 are entitled each 1/3 share and the Sale Agreement entered by first defendant would not bind the Defendant Nos.2 and 3.

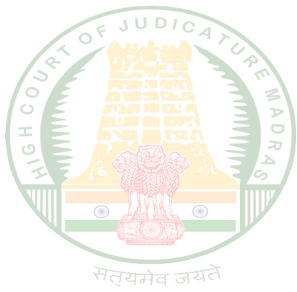
6. Thereafter, the first defendant filed an Interlocutory Application under Order VI Rule 16 of CPC in I.A.No.3 of 2022 to strike off the averments stated in the written statement dated October 22, 2002 reasoning out that in the earlier written statement dated October 22, 2002, the First Defendant expressed his readiness and willingness to execute the Sale Deed. But in the written statement dated January 13, 2020 and in the additional written statement dated February 26, 2021, he took a stand that the Sale Agreement was created only for the purpose of loan transaction. The First Defendant wanted to withdraw the admission made in the earlier written statement. As the same is not permissible, the Trial Court dismissed the Interlocutory Application. Feeling aggrieved, the First Defendant filed this Civil Revision Petition.



7.The learned Counsel for the Revision Petitioner submitted

that the First Defendant did not instruct his Counsel on record to file the written statement dated October 22, 2002. The first defendant filed a written statement dated January 13, 2020 and an additional written statement dated February 26, 2021 which are the correct written statements. Hence, the earlier written statement which is on record has to be struck off. The Trial Court, without appreciating the facts and circumstances of the case, dismissed the Interlocutory Application. Therefore, she prayed to allow the Civil Revision Petition and set aside the dismissal Order passed by the Trial Court in I.A.No.3 of 2022 and strike off the written statement dated October 22, 2002.

8.Per contra, Ms.V.Sasirekha, learned Counsel for the First Respondent / Plaintiff submitted that the First Defendant wants to withdraw the admission made in the earlier written statement which is not permissible. The Trial Court, rightly dismissed the Interlocutory Application and there is no need to interfere in it. Accordingly, the learned Counsel prayed to dismiss this Civil Revision Petition.



9.This Court has considered the submissions made on either side and perused the materials available on record.

10.It is pertinent to mention that the first defendant has filed a written statement dated January 13, 2020 pursuant to the Order passed by this Court in CRP.No.3898 of 2014 directing the first defendant to pay a cost of Rs.15,000/- to the Plaintiff (after which the *exparte* decree passed against him was revoked). The Interlocutory Application in I.A.No.3 of 2022 was filed on December 13, 2021, wherein in the affidavit filed along with the application, he stated that he was aware of the written statement dated October 22, 2002 only during his cross examination on November 24, 2021. He further stated that the written statement dated October 22, 2002 was not filed by him and also not through his Advocate and the contents in it, were not his recitals. However, in his cross examination, on November 24, 2021 he clearly admitted the contents, signature and filing of the written statement dated October 22, 2002. In fact, the written statement dated October 22, 2002 was shown to the first defendant during those admissions. On considering all these facts, it can only be ascertained that the filing of the



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additional written statement and the Interlocutory Application is an afterthought.

10.1.It is a settled position of law that the parties to the Suit cannot withdraw the earlier admission made in the pleadings. In the earlier written statement, the First Defendant admitted the nature and character of the documents and also agreed to execute the Sale Deed as per the Sale Agreement. As an after thought, he filed additional written statement wherein he took an altogether and a different stand stating that the Sale Agreement in question was executed as a security for loan transaction. Now, the first defendant wants to withdraw the earlier admission made in the written statement dated October 22, 2002 by way of this Interlocutory Application, which is not permissible.

10.2.Further, the Suit is of the year 2002. The plaintiff's side evidence was closed with P.W.2 on October 26, 2021. When the case is posted for cross-examination of D.W-3, the Revision Petitioner filed this Civil Revision Petition. The Trial Court after appreciating the facts and circumstances, rightly dismissed the Interlocutory Application. There is



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no necessity to interfere in it. Hence, this Court finds no merits in this

Civil Revision Petition.

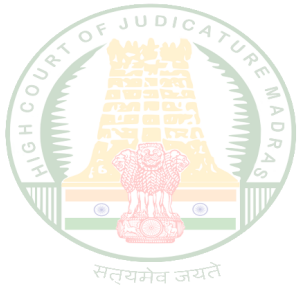
11.In fine, this Civil Revision Petition is dismissed.

Considering the facts and circumstances of the case, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes
Neutral Citation : Yes
Speaking Order : Yes

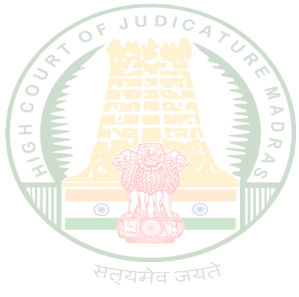
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To
The Principal Subordinate Judge
Kallakurichi.



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R. SAKTHIVEL, J.

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PRE-DELIVERY ORDER MADE IN

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