



C.R.P.(MD) No.325 of 2020

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2023

CORAM:

**THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI**

C.R.P.(MD)No.325 of 2020

and

C.M.P(MD) No.1839 of 2020

A.Sankaranarayanan

... Petitioner

Vs.

M.Panchavarnam

... Respondent

Prayer :- Petition filed under Section 115 of the Code of Civil Procedure, to set aside the order dated 13.12.2019 passed in E.P.No.24 of 2019 in O.S.No.90 of 2013 on the file of Subordinate Court, Valliyoor.

For Petitioner : Mr.T.Thirumurugan

For Respondent : Mr.M.S.Jeyakarthish

ORDER

The above civil revision petition is preferred as against the order passed in E.P.No.24 of 2019 in O.S.No.90 of 2013, dated 13.12.2019, on the file of the Subordinate Court, Valliyoor.



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2. According to the petitioner, the respondent/plaintiff filed the above suit in O.S.No.90 of 2013 on the file of the Subordinate Court, Valliyoor, for specific performance and also for permanent injunction. The said suit was referred to the Lok Adalat and an Award was passed in favour of the respondent/plaintiff. Thereafter, the respondent filed E.P.No.24 of 2019 for executing the decree and the same was allowed on 13.12.2019, against which, the present revision is preferred by the revision petitioner/defendant.

3. The learned counsel for the revision petitioner would submit that the suit property is a joint family property and undivided property, wherein the petitioner does not have any individual right. The petitioner cannot execute any sale deed in favour of the respondent / plaintiff with respect to the suit property. The Executing Court cannot pass any order executing the decree in compliance of the Award dated 10.02.2018, since there is no cause for auctioning the property. Therefore, the order passed in E.P.No.24 of 2019 is liable to be set aside.



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4. On the other hand, the learned counsel for the respondent would submit that the Executing Court considering the materials available on records has rightly allowed the petition, which calls for no interference. He would further submit that the revision under Section 115 CPC does not lie against an Award passed by the Lok-Adalat.

5. Heard the learned counsel appearing on either side .

6. The respondent filed the suit in O.S.No.90 of 2013 and the matter was referred to Lok Adalat and in the Lok Adalat, the following Award has been passed:-

21.04.2011ல் உபயதரப்பினர்களிடையே ஏற்பட்ட கிரய ஒப்பந்தப்படி ஏற்றதை ஆற்றுகை செய்யும் பரிகாரம் கேட்டு வாதியால் தாக்கல் செய்யப்பட்டுள்ளது தரப்பினர்கள் முன்னிலையானார்கள். இருவரும் பேசி சமரசம் செய்து கொண்டனர்.

அதன்படி கிரய ஒப்பந்தத்தில் குறிப்பிட்டுள்ள முன்பணம் ரூ.6,00,000 /- (ரூபாய் ஆறு இலட்சம் மட்டும்)- 12% வட்டி விகிதத்தில் ரூ. 6,00,000 /- (ரூபாய் ஆறு இலட்சம் மட்டும்) மற்றும் 21.04.2013 முதல் 21.04.2018 வரை 5 வருட காலத்திற்கு



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(அறுபது மாதங்கள்) ரூ.3,60,000/- (ரூபாய்
மூன்று இலட்சத்தி அறுபதாயிரம்) வட்டியும் சேர்த்து ஆக
மொத்தம் ரூ.9,60,000/- (ரூபாய் ஒன்பது இலட்சத்து
அறுபதாயிரம்) 30.04.2018ற்குள் வாதியிடம் பிரதிவாதி
செலுத்துவதாக ஒப்புக் கொண்டார்.

ஹை தொகையை பெற்றுக் கொண்ட பின் வாதி
21.04.2011 தேதிய கிரய ஒப்பந்தத்தை ரத்து செய்து
கொடுக்க சம்மதிக்கிறார்.

7. As per the said Award, the revision petitioner was directed to pay a sum of Rs.9,60,000/- on or before 30.04.2018. Since the revision petitioner/defendant failed to pay the said amount, the respondent/plaintiff was constrained to file the execution petition to execute the Award passed in the Lok Adalat. The said petition was allowed on 13.12.2019, against which, this revision petition is preferred. The said revision petition is not maintainable for the reason that the revision under Section 115 of CPC is not maintainable against any Award passed in the Lok Adalat, unless any misrepresentation is made for passing the award and the only option left to the revision petitioner is to prefer a writ petition challenging the Award passed in the Lok Adalat.



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8. In view of the above, this revision petition is dismissed as not maintainable. No costs. Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes/No
Internet : Yes
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To

The Subordinate Judge,
Valliyoor.



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K.GOVINDARAJAN THILAKAVADI, J.

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