



C.R.P(MD)No.1323 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.06.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.1323 of 2023

and

C.M.P(MD)No.6588 of 2023

Haja Saibudeen

...Petitioner/2nd Respondent/
2nd Respondent/Nil

Vs.

M.L.S.Ummul Kairi Salma Beevi (Died)

1.Udhayan M.Rajendran

...1st Respondent/
1st Respondent/Nil/Nil

2.Shahul Hameed

...2nd Respondent/
1st Respondent/
1st Respondent/Plaintiff

PRAYER: Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the fair and decreetal order, dated 08.04.2023 in E.A.No.1 of 2021 made in E.A.No.583 of 2015 in O.S.No.693 of 1999 on the file of the Principal District Munsif, Tirunelveli.

For Petitioner : Mr.Raguvaran Gopalan



C.R.P(MD)No.1323 of 2023

ORDER

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The present Civil Revision Petition has been filed against the fair and decreetal order, dated 08.04.2023 made in E.A.No.1 of 2021 in E.A.No.583 of 2015 in O.S.No.693 of 1999 on the file of the Principal District Munsif, Tirunelveli.

2. The petitioner is the purchaser of the property through Court auction in SARFAESI proceedings that came to be initiated against the plaintiff in O.S.No.693 of 1999. The suit was filed by one Shahul Hameed, second respondent herein, against one M.L.S.Ummul Kairi Salma Beevi.

3. The suit is supposed to have been compromised on 16.06.2000, wherein, the title of the plaintiff, Shahul Hameed is said to have been confirmed. Thereafter, the property was offered by the plaintiff, Shahul Hameed, second respondent herein as a security for loan to the Bank of India.



C.R.P(MD)No.1323 of 2023

4. It appears that the second respondent herein, Shahul Hameed was however unable to repay the amount to the Bank of India. Therefore, proceedings were initiated against the second respondent herein under the provisions of the SARFAESI Act, 2002 by the Bank of India.

5. The ownership of the property of late M.L.S.Ummul Kairi Salma Beevi, in respect of which the Shahul Hameed, second respondent herein had seemingly perfected the title pursuant to compromise dated 16.06.2000 was brought to auction under the provisions of the SARFAESI Act by the Bank of India.

6. Pursuant to auction sale, the petitioner herein purchased the property in the Court auction. The sale certificate was also issued in favour of the petitioner. The defendant in the suit, namely, late M.L.S.Ummul Kairi Salma Beevi filed an application in E.A.No.583 of 2015 under Section 47 of C.P.C., to declare the compromise decree passed on 16.06.2020 as null and void as according to her she had neither signed the compromise decree nor authorised her counsel to file a compromise in O.S.No.693 of 1999.



C.R.P(MD)No.1323 of 2023

7. After filing E.A.No.583 of 2015, the said M.L.S.Ummul Kairi

Salma Beevi here sold the same asset to the first respondent herein by sale deed, dated 19.06.2017 registered as Document No.2513 of 2017. It appears that the proceedings under Section 83 of the Registration Act have also been initiated to cancel the registration in favour of the first respondent, purchaser of the said land which was earlier purchased by the petitioner in Court auction under SARFAESI Act. In the said proceedings, the first respondent filed E.A.No.1 of 2021 to implead himself to step into the shoes of his vendor, namely, M.L.S.Ummul Kairi Salma Beevi. The application has been allowed by the Court with the following observations:

"10.மேற்கண்ட சூழ்நிலையில், மனுதாரர் பெயரில் உள்ள கிரைய ஆவணத்தை ரத்து செய்து, மாவட்ட பதிவாளர் பிறப்பித்த உத்தரவை எதிர்த்து நாளது தேதியில் மேல்முறையீடு நிலுவையில் உள்ள நிலையில், மேற்படி 19.06.2017 ஆவணத்தின் செல்லும் தன்மை மற்றும் எ.மா.சா.ஆ.1 உத்தரவு குறித்தும், பிரதான மனுவில் தீர்வு காண வழியுள்ள நிலையில், மேற்கண்ட சங்கதிகளுக்கு பாதகம் இல்லாமல் இம்மனுவை அனுமதித்து, மனுதாரரை இறந்து பொன பிரதான மனுவில் மனுதாரரின் சட்டப்பிரதிநிதியாக அங்கீகரித்து உத்தரவிடுவதன் மூலம் பிரதான மனுவின் தன்மையை தீர்வு காண இயலும் என்பதால், இம்மனுவை இந்த சூழ்நிலையில் அனுமதித்து உத்தரவிடுவதே நீதியின் நலனுக்கு உகந்தது என்றும் இந்நீதிமன்றம் முடிவு செய்கிறது.

இறுதியில், இம்மனு அனுமதிக்கப்படுகிறது. செலவு தொகை இல்லை."



C.R.P(MD)No.1323 of 2023

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8. The learned counsel for the petitioner submits that the first respondent has no *locus standi* as the sale by late.M.L.S.Ummul Kairi Salma Beevi to the first respondent on 19.06.2017 was itself fraudulent. It is further submitted that the pending disposal of the proceedings initiated under Section 83 of the Act, the first respondent cannot step into the shoes of the deceased petitioner in E.A.No.1 of 2021, namely, M.L.S.Ummul Kairi Salma Beevi.

9. I have considered the arguments advanced by the learned counsel for the petitioner.

10. In my view, there is no case made out for interference at this stage. This Court has merely allowed the first respondent herein to step into the shoes of late.M.L.S.Ummul Kairi Salma Beevi as admittedly the said M.L.S.Ummul Kairi Salma Beevi has executed the sale deed in his favour on 19.06.2017 vide registered Document No.2513 of 2017. The first respondent would qualify as a legal representative in view of the definition in Section 2(11) of C.P.C., which reads as under:

(11) "legal representative" means a person who in law represents the estate of a deceased person, and includes any



C.R.P(MD)No.1323 of 2023

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person who intermeddles with the estate of the deceased and where a party sues or issued in a representative character the person on whom the estate devolves on the death of the party so suing or sued;

11. The impleading of the first respondent to represent the interest of the said M.L.S.Ummul Kairi Salma Beevi vide sale deed, dated 19.06.2017 registered as Document No.2513 of 2017 *ipso facto* does not determine the *inter se* rights of the parties herein.

12. The present Civil Revision Petition stands dismissed with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

07.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
sn

To

1.The Principal District Munsif,
Tirunelveli.

2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,



Madurai.

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C.R.P(MD)No.1323 of 2023

C.SARAVANAN,J.

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C.R.P(MD)No.1323 of 2023

07.06.2023