

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(NPD) No.4749 of 2014andM.P.No.1 of 2014

N.K.Rajendiran

...

Petitioner

Vs.

1. T.N.Rajendran,

2. Ravi Varma,

...

Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the order passed in E.A.No.50/04 in E.P.No.185 of 2000 in O.S.No.942 of 1996 dated 17.12.2004 passed by the Learned District Munsif Court at Gudiyattam which was confirmed in C.M.A.No.6 of 2005 dated 13.09.2006 passed by the learned Subordinate Judge, at Gudiyattam, Vellore District.

For Petitioner

:

Mr.M.V.Muralidharan

Orders reserved on 30.01.2015

Orders pronounced on .02.2015

ORDER

The first defendant in O.S.No.942 of 1996 on the file of the District Munsif, Gudiyattam is the petitioner in this civil revision petition. The first respondent had instituted a suit against the petitioner and one T.M.Kanniyan for recovery of money on the basis of promissory note.

2. The suit was decreed on 19.11.1997. Based on the decree, the first respondent laid an execution petition in E.P.No.185 of 2000. In the execution proceedings, the property of the judgment debtor was attached and sold in Court auction held on 07.01.2004. The petitioner along with three others filed E.A.No.50 of 2004 under Order 21 Rule 90 C.P.C alleging that there are material irregularities and fraud in conducting the sale.

3. The application was resisted by the auction purchaser. The District Munsif, Gudiyattam, after elaborately considering the case of the petitioner, rejected the same. The order of the Executing Court was confirmed by the Subordinate Court, Gudiyattam, in C.M.A.No.6 of 2005. Aggrieved by the order, the present civil revision petition is filed.

4. Heard Mr.M.V.Muralidharan, learned counsel for the petitioner and perused the records.

5. Indisputably, the petitioner is the first defendant in O.S.No.942 of 1996. The petitioner challenged the sale mainly contending that the second defendant and the decree holder have colluded with each other and sold the property for lesser value. Though the petitioner contended that there was material irregularity and fraud, it was not specifically pleaded and proved by

the petitioner. In the executing Court and the Appellate Court, after elaborately considering the case of the petitioner, dismissed the same. I do not find any perversity or irregularity in the impugned order warranting interference.

In fine, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

20.02.2015

Index : Yes/No
Internet : Yes/No
sms

To

1. The Learned District Munsif Court,
Gudiyattam.
2. The learned Subordinate Judge,
Gudiyattam, Vellore District.

K.KALYANASUNDARAM, J.

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Pre-delivery order in
C.R.P.(NPD) No.4749 of 2014
and
M.P.No.1 of 2014

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20.02.2015