

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.07.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)No.2499 of 2015 &

M.P.No.1 of 2015

K.Subramanian

... Petitioner

v.

1.Shree Varadaraja Benefit Fund Ltd.,
Rep. By its Secretary,
No.149/1, Pursawalkam High Road,
Purasawalkam, Chennai.

2.D.Gajendran

3.Jagdish Auctioners & Co.,
No.24,
Chakrapandi Road 2nd Lane,
Maduvankarai,
Chennai – 600 032.

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 15.04.2015 made in I.A.No.5702 of 2013 in O.S.No.4025 of 2009 on the file of XII Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.R.Venkata Varathan_

O R D E R

Challenging the fair and final order passed in I.A.No.5702 of 2013 in O.S.No.4025 of 2009 on the file of XII Assistant Judge, City Civil Court, Chennai, the plaintiff has filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No.4025 of 2009 to declare the sale deed executed in favour of the 2nd defendant on 08.04.2009 as null and void and not binding on the plaintiff, since the order of stay dated 31.3.2009 was in force and for permanent injunction. The 2nd defendant filed his written statement and is contesting the suit.

3. In the year 2013, the plaintiff took out an application in I.A.No.5702 of 2013 to permit him to deposit a sum of Rs.9,10,000/- being the total sale consideration paid by the 2nd respondent on the sale deed dated 8.4.2009. The plaintiff has filed the application in order to prove his bona fide. The application filed by the plaintiff was contested by the defendants.

4. The Trial Court, after taking into consideration the case of both the parties, dismissed the application finding that there is no necessity for depositing the amount during the pendency of the suit.

5. Mr.R.Venkata Varathan, learned counsel appearing for the petitioner submitted that if the plaintiff is permitted to deposit the amount to the credit of the suit, it would be in a better position to prove his bona fide. That apart, the learned counsel also submitted that while dismissing the application, the Trial Court has gone into the merits of the suit and given an adverse finding as against the case of the plaintiff.

6. As already stated, the suit was filed in the year 2009 and the present application was filed by the plaintiff in the year 2013. In order to prove his bona fide, the plaintiff has filed the present application, after a lapse of 4 years. We can understand, if the plaintiff had filed the application at the time of filing of the suit to establish his bona fide. In these circumstances, the application is devoid of merits, which was rightly dismissed by the Trial Court.

7. I do not find any error or irregularity in the order passed by the Trial Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Since the suit is pending from 2009, I direct the XII Assistant

Judge, City Civil Court, Chennai to dispose of the suit in O.S.No.4025 of 2009 on merits and in accordance with law, within a period of four months from the date of receipt of a copy of this order, without being influenced by any of the observations given by the Trial Court in the order dated 15.04.2015 made in I.A.No.5702 of 2013 in O.S.No.4025 of 2009 or in the present Civil Revision Petition.

With these observations, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : No
Internet : Yes

14.07.2015

Rj

To

The XII Assistant Judge,
City Civil Court,
Chennai

M. DURAISWAMY,J.,

Rj

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