

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2015

CORAM

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

C.R.P(NPD) No.3480 of 2015

Bathrinath

... Petitioner

Vs.

1.Bhama

2.Vijaya

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order dated 07.04.2014 in E.A.No.131 of 2012 in E.P.No.218 of 2009 in O.S.No.61 of 2004 on the file of learned Subordinate Judge of Thiruvarur.

For Petitioner : Mr.V.Raghupathi

For Respondents : Mr.V.S.Suresh for R1
Mr.M.Thamizhvel for R2

ORDER

The 1st respondent herein filed O.S.No.61 of 2004 on the file of Sub Court, Thiruvarur for recovery of money against the 2nd respondent herein. The Sub Court, Chidambaram decreed O.S.No.61 of 2004 on 04.09.2007 for a sum of Rs.1,23,500/-. It is admitted that no further appeal is filed against the decree referred to above. Hence, it attains finality.

2. The 1st respondent filed E.P.No.218 of 2009 for execution of the decree before the Sub Court, Thiruvarur, since the property of the 2nd respondent is situated within the jurisdiction of Sub Court, Thiruvarur. In

E.P.No.218 of 2009, public action of the property of the 2nd respondent herein took place on 12.06.2012. The revision petitioner is the highest bidder, who offered Rs.2 Lakhs. He also immediately deposited a sum of Rs.50,000/- on 12.06.2012 and also deposited the balance amount of Rs.1,50,000/- on 18.06.2012. Hence, he deposited the entire amount of Rs.2 Lakhs viz., the highest bid amount. But the revision petitioner failed to deposit the sale certificate amount representing the cost of the stamp duty for registering the property, that comes to Rs.16,000/-. In the circumstances, the revision petitioner filed E.A.No.131 of 2012 in E.P.No.218 of 2009 in O.S.No.61 of 2004 under Sections 148 r/w 151 of C.P.C. to condone the delay and to extend the time for depositing a sum of Rs.16,000/- particularly when he deposited the entire bid amount. But the Execution Court rejected E.A.No.131 of 2012 on 07.04.2014. Hence, this revision petition.

3. The respondents herein entered appearance at the time of filing of application by the revision petitioner to condone the delay and also continue to represent the respondents in this Civil Revision petition.

4. Heard both sides.

5. This Court has given several opportunity, when the 2nd respondent herein represented time to satisfy the decree by paying the necessary

amount to the decree holder and in that event, this Court expressed its view that the second respondent could retain the property and the revision petitioner could take back the amount. The matter adjourned repeatedly for the second respondent to use the opportunity. But the 2nd respondent failed to comply with the same.

6. In the circumstances, I am of the view that the order of the Execution Court refusing to exercise its power under Section 148 of C.P.C. is not correct and I am inclined to interfere with the same.

7. Accordingly, this Civil Revision petition is allowed and the order dated 07.04.2014 in E.A.No.131 of 2012 in E.P.No.218 of 2009 in O.S.No.61 of 2004 passed by the learned Subordinate Judge, Thiruvarur is set aside and a direction is issued to the Executing Court to receive the amount of Rs.16,000/- from the petitioner towards sale certificate cost. The petitioner shall pay the amount of Rs.16,000/- within a period of two weeks from the date of receipt of a copy of this order. No costs.

15.10.2015

Index : Yes

Internet: Yes

vsm

Note: Issue order copy on 19.10.2015.

D.HARIPARANTHAMAN,J.

vsm

To

The Sub Court, Thiruvavarur.

C.R.P(NPD) No.3480 of 2015

15.10.2015