

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAIWAMY

C.R.P.(NPD).No.4265 of 2015
and M.P.No.1 of 2015

M.Kathiroli

... Petitioner

Vs.

1.S.Vasanth

2.K.Malliga

... Respondents

Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the fair and decreetal order dated 28.04.2015 made in E.A.No.111 of 2006 in E.P.No.235 of 1999 in O.S.No.1085 of 1996 on the file of the Additional District Munsif Court, Vellore, Vellore District.

For Petitioner : Mr.T.P.Prabakaran

ORDER

Challenging the fair and decreetal order passed in E.A.No.111 of 2006 in E.P.No.235 of 1999 in O.S.No.1085 of 1996 on the file of the Additional District Munsif Court, Vellore, Vellore District, the petitioner, who had purchased the property from the Judgment Debtor during the pendency of the Execution Petition, has filed the above Civil Revision Petition.

2.The 1st respondent/plaintiff filed the suit in O.S.No.1085 of 1996 for recovery of money and pursuant to the decree granted in the said suit, she filed an Execution Petition in E.P.No.235 of 1999 for the sale of the property. The Execution Petition was filed in the year 1999. During the pendency of the Execution Petition, the petitioner purchased the property on 28.10.2004. After the purchase made by the revision petitioner, he filed an application in E.A.No.69 of 2006 in E.P.No.235 of 1999 to raise the attachment. The said application was dismissed by the Execution Court, however, the petitioner has not challenged the said order. Thereafter, the property was sold in the Court auction on 27.02.2006. Subsequently, the revision petitioner filed an application under Order 21 Rule 90 of the Civil Procedure Code in E.A.No.111 of 2006 to set aside the sale. The Execution Court dismissed the application finding that the petitioner has not challenged the order passed in E.A.No.69 of 2006, therefore, the present petition filed under Order 21 Rule 90 of the Civil Procedure Code is devoid of merits.

3.The learned counsel for the petitioner submitted that the Judgment Debtor's husband had sold the property, which was sold in Court auction on 27.02.2006 to the petitioner.

4. Having purchased the property knowing fully well that the Execution Petition was pending, the petitioner cannot now contend that the Sale made on 27.02.2006 is liable to be set aside. Further, the Judgment Debtor's husband should not have sold the property during the pendency of the Execution Petition to the revision petitioner. The very filing of the application itself is devoid of merits. The Execution Court, taking into consideration all these aspects, rightly dismissed the application.

5. In these circumstances, I do not find any error or irregularity in the order passed by the Execution Court. The Civil Revision Petition is devoid of merits and the same is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
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09.12.2015

To

The Additional District Munsif Court,
Vellore,
Vellore District.

M.DURAIWAMY,J.
va

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