

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(NPD).No.688 of 2015

and

M.P.No.1 of 2015

N.Shanmugam

....

Petitioner

Vs.

1.R.Ponnusamy

2.M/s.City Finance,

Rep.by its Partner Mr.Palaniappan,

Molipatti Post, Thiruchengode Taluk,

Namakkal District.

Head Office at Door No.3.65,

Thiruchengode Town,

Administrative Office at

Door No.48/43, Velur Road,

Thiruchengode Town.

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Respondents

PRAYER : Civil Revision Petition filed under Section 115 of C.P.C against the order of the Principal District Munsif, Thiruchengode in R.E.A.No.131 of 2008 in R.E.P.No.18 of 2002 in O.S.No.237 of 1998 dated 16.04.2014.

For Petitioner : Mr.C.K.M.Appaji

ORDER

The Civil Revision Petition is directed against the order dated 16.04.2014 passed by the Principal District Munsif, Thiruchengode, in R.E.A.No.131 of 2008 in R.E.P.No.18 of 2002 in O.S.No.237 of 1998.

2.The Judgment debtor, in R.E.P.No.18 of 2002 on the file of the Principal District Munsif, Thiruchengodu, is the petitioner herein.

3.The second respondent had instituted a suit in O.S.No.237 of 1998 against the petitioner for recovery of money. On the basis of the decree dated 22.10.1998, an execution petition was filed in R.E.P.No.18 of 2002 to recover the decree amount by way of attachment and sale of the property of the judgment debtor.

4.The property was sold in Court auction and the first respondent is the Court auction purchaser. The first respondent has purchased the property in a Court Auction and the sale was confirmed by the Court on 22.06.2007. The sale certificate was issued on 22.01.2008. The petitioner has not challenged the sale.

5.The Auction purchaser/first respondent herein filed R.E.A.No.131 of 2008 for delivery of possession. The application was resisted by the petitioner stating that insolvency petition is pending in I.P.No.41 of 2008. It is further contended that the first respondent has wrongly quoted the provisions under Order 21 Rule 35 C.P.C instead of Order 21 Rule 95 C.P.C.

6. It is seen that the Executing Court has considered the objection of the petitioner and held that wrong quoting of provision would not dis-entitle the auction purchaser in seeking delivery of possession of the property. The Executing Court has observed that the petitioner herein has not challenged the Court auction sale held in the year 2007. Hence, I do not find any illegality or irregularity in the impugned order.

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

26.02.2015

Index : Yes/No
Internet: Yes/No
sms

To
The Principal District Munsif, Thiruchengode.

K.KALYANASUNDARAM,J.

sms

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