

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2015

C O R A M

THE HONOURABLE **Mr.JUSTICE K.KALYANASUNDARAM**

CRP.NPD.No.885 of 2015

and

M.P.No. 1 of 2015

1. Padmavathy,
2. Rajeswaran

... Petitioners

Vs.

1. Natarajan
2. Nallasamy Gounder
3. S.Kumar
Nachimuthu Gounder (Died)
4. Seethalakshmi
5. Chellammal
6. Kaliasammal
7. Pachaiappan
8. Maheswari
9. Murugesan

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, directing the Learned District Munsif Court, Dharapuram to dispose E.A.No.54 of 2014 in of E.A.No.50 of 2014 in E.P.No.131 of 2004 in O.S.No.12 of 1999 pending on the file of District Munsif Court, Dharapuram.

For Petitioners : Mr.R.Bharathidasan

ORDER

The civil revision petition is filed seeking for a direction, directing the Learned District Munsif, Dharapuram, to dispose E.A.No.54 of 2014 in E.A.No.50 of 2014 in E.P.No.131 of 2004 in O.S.No.12 of 1999.

2. It is seen that in the suit filed by the first respondent, the property of the defendant was sold in the Court auction. The third respondent is the auction purchaser.

3. The petitioners filed E.A.No.50 of 2014 under Order 21 Rule 58 C.P.C to declare that the sale of the Court auction is null and void and also for other reliefs. The application was dismissed for non-prosecution on 04.08.2014. Thereupon, the petitioner filed E.A. 54 of 2014, to restore E.A.No.50 of 2014. In the affidavit, the petitioners have averred that on 04.08.2014, the sister of the counsel, who is appearing for the petitioners, died and hence, the application was dismissed for non-prosecution.

3. Mr.R.Bharathidasan, Learned Counsel for the Petitioners submitted that the petitioners' right in the well was also sold in the auction and hence, they filed E.A.No.50 of 2014 to set aside the sale. The Learned Counsel further submitted that when the application is pending, the Executing Court is taking steps to issue sale certificate in favour of the auction purchaser.

4. Considering the facts of the case and the submissions of the learned counsel for the petitioners, the District Munsif, Dharapuram, is directed to dispose of E.A.No.54 of 2014 in E.A.No.50 of 2014 in E.P.No.131 of 2004 in O.S.No.12 of 1999, before issuing sale certificate to the auction purchaser, within a period of one month from the date of receipt of copy of this order. The Executing Court shall issue the sale certificate, after disposal of E.A.No.54 of 2014 in E.A.No.50 of 2014 in E.P.No.131 of 2004.

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

27.02.2015

sms/srn

To

The Learned District Munsif Court, Dharapuram.

K.KALYANASUNDARAM,J.

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