

The civil revision petition is directed against the order dated 28.11.2014 passed by the learned IX Assistant Judge, City Civil Court, Chennai, in E.P.No.3913 of 2013 in O.S.No.12763 of 2010.

2. The petitioner is the defendant in O.S.No.12763 of 2010. The suit was filed by the respondent in the year 2002 before the original side of the High Court, Madras, in C.S.No.127 of 2002 for recovery of a sum of Rs.18,25,000/-. Later, the suit was transferred to the I Additional Judge, City Civil Court, Chennai, due to the increase of pecuniary jurisdiction and re-numbered as O.S.No.12763 of 2010. Due to non-participation of the defendant in the trial, the trial Court decreed the suit as ex parte on 29.06.2012.

3. Based on the ex parte decree, the plaintiff has laid an Execution Petition for recovery of a sum of Rs.60,31,825.50 by way of attachment and sale the property of the Judgment Debtor. The petitioner resisted the execution petition stating that in the year 2008, he had executed a settlement deed in favour of his wife and son regarding the suit property and the entire revenue records have been mutated in the name of transferees. Despite objection, the Executing Court allowed the Execution Petition. Aggrieved by the order, the present civil revision petition is filed.

4. Mr. D.Ashok Kumar, learned counsel for the petitioner submitted that the property, in dispute, was attached by this Court in the year 2002 and on the date of attachment, the father of the petitioner was the absolute owner of the property. After the demise of the father of the petitioner in the year 2006, there was a family partition in the year 2007 and a small portion of the property in dispute was given to the share of the petitioner, which was also settled in favour of his wife and son. The learned counsel further submitted that when the settlement deeds were executed in the year 2008, there was no prohibitory order.

5. I do not agree with the contentions of the learned counsel for the petitioner. The execution petition was resisted on the only ground that the petitioner has settled the property in favour of his wife and son in the year 2008, so it cannot be executed. It is settled law that any transfer of interest in a property while the attachment was in force is void.

6. Admittedly, the property was attached, when the suit was pending before the High Court. Further as per Section 53 of the Transfer of Property Act, if any transfer takes place in a fraudulent

manner to defeat the rights of the creditors, the transfer shall be voidable. The Executing Court has rightly rejected the objections of the petitioner and allowed the Execution petition. I do not find any illegality or irregularity in the order impugned.

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

19.03.2015

Index : Yes/No
Internet: Yes/No
sms

Note: Issue order copy next week.

To
The learned IX Assistant Judge, City Civil Court, Chennai.

K.KALYANASUNDARAM,J.

Mrp/sms

C.R.P.(PD).No.994 of 2015
and
M.P.No.1 of 2015

19.03.2015