

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2016

CORAM

THE HONOURABLE THIRU JUSTICE **M. DURAISWAMY**

C.R.P.(NPD) No.4799 of 2014
and M.P.No.1 of 2014

T.D. Dharmalingam

.... Petitioner

vs

1. K.R. Palani
2. S. Jayalakshmi
3. S. Karthikeyan
4. S. Thinakaran
5. S. Sankaran

.... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal order dated 05.09.2014 made in E.P.No.56 of 2010 in O.S.No.16 of 2004 on the file of Principal District Court, Vellore District, Vellore.

For Petitioner : Mr.T. Dhanyakumar

For R.1 : Dr.C. Ravichandran for
Mr.A.V. Ilango

For R.2 to R.5 : Mr.V. Perumal (No appearance)

ORDER

Challenging the Order passed in E.P.No.56 of 2010 in O.S.No.16 of 2004 on the file of Principal District Court, Vellore, the first Judgment Debtor has filed the above Civil Revision Petition.

2. The first respondent/plaintiff filed a suit in O.S.No.16 of 2004 for recovery of money. The trial Court decreed the suit on 09.10.2009. Pursuant to the decree passed in the suit in O.S.No.16 of 2004, the first respondent/plaintiff filed an execution petition in E.P.No.56 of 2010 to attach the property and to sell the same in Court auction and pay the decree amount from the sale proceeds to the plaintiff.

3. The revision petitioner filed his counter and contested the application stating that the property, which was attached by the Executing Court, does not belong to him and the same belongs to one Gowrisankar, who is his minor son. In the counter, the revision petitioner has stated that he had executed a Settlement Deed in favour of his minor son, represented by his wife on 02.07.2001.

4. The first respondent has filed the suit based on a Pronote, executed by the first defendant, who is the father of the other defendants, including the revision petitioner. The Settlement Deed was executed by the revision petitioner in favour of his minor son on 02.07.2001 i.e., after the execution of the suit pronote. The suit was filed on 20.11.2002. Taking note of all these aspects, the Executing Court found that the first defendant borrowed loan from the Decree Holder in the year 2000 itself and that the suit was filed in the year 2004 and with an intention to deceive the Decree

Holder, the revision petitioner had made a transfer of property in favour of his minor son in the year 2001. Therefore, the Executing Court had ordered attachment of the property.

5. As rightly held by the Executing Court, the Settlement Deed, executed by the Revision Petitioner in favour of his son, is only to circumvent the payment of decree amount. The Executing Court has rightly ordered attachment. I do not find any error or irregularity in the order passed by the Executing Court. The Civil Revision Petition is devoid of merits and the same is dismissed. No costs. Consequently, connected MP is closed.

01-11-2016

sr

Index:no
website:yes

To

The Principal District Court, Vellore

M. DURAISWAMY,J.,

sr

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