

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2016

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

C.R.P.(PD).No.4729 of 2015
& M.P.No.1 of 2015

Selvi ... Petitioner

Vs.

Sakthivel ... Respondent

Prayer:- Petition filed under Article 227 of the Constitution of India, against the attachment order passed against them vide order dated 22.7.2015 in E.P.No.37 of 2013 filed in O.S.No.71 of 2012 on the file of learned Sub Judge, Harur.

For Petitioner : Mr.M.Karuppiah

ORDER

The petitioner has come forward with the above Civil Revision Petition against the attachment order passed vide order dated 22.7.2015 in E.P.No.37 of 2013 filed in O.S.No.71 of 2012 on the file of learned Sub Judge, Harur.

2. At the time of admission, the arguments of the learned counsel for the petitioner are heard in length. Considering the

nature of order passed herein, notice to respondent is dispensed with.

3. The respondent as plaintiff filed suit in O.S.No.71 of 2012 and the suit was decreed ex parte on 04.02.2013 and the judgment debtor in E.P.No.37 of 2013 has come forward with this Revision Petition challenging the sale notice ordered on 22.07.2015.

4. The respondent as plaintiff filed suit for the amount due on promissory note dated 17.02.2010. Ex parte decree has been passed on 04.02.2013. Since the judgment debtor/revision petitioner herein has not paid the said amount, E.P.No.37 of 2013 has been filed by the decree holder. In the said E.P., after following the procedure, sale notice has been ordered on 22.07.2015, against which, the present Revision Petition has been filed before this Court.

5. The learned counsel appearing for the revision petitioner would submit that to set aside the ex parte decree, the defendant/revision petitioner herein has filed application in I.A.No.145 of 2014 with delay of 331 days and the said application was dismissed for default, against which, the defendant filed

another application in I.A.No.68 of 2015 to restore the petition dismissed on 17.09.2014 with delay of 80 days. He further submitted that the Revision Petitioner is ready and undertakes to deposit the entire decree amount.

6. Considering the above submission, this Court is of the view that it is left open to the revision petitioner/defendant to deposit the entire decree amount and pursue the matter further. It is a matter of record that the decree has been passed on 04.02.2013; E.P., filed on 08.10.2013 and defendant has entered appearance through his counsel as early as on 06.01.2014, even thereafter counter was not filed and attachment has been ordered on 22.07.2015 and after following the procedure, sale notice was ordered. Now, the revision petitioner has come forward with the present revision, challenging the sale notice order dated 22.7.2015 in E.P.No.37 of 2013 filed in O.S.No.71 of 2012, with a malafide intention and deliberate dilatory tactic, to drag on the proceedings. Hence, I do not find any merit in the revision petition and accordingly, the same is dismissed. No costs. Consequently, connected MP is closed.

nvsri

05.01.2016

R.MALA,J.

nvsri

To

1. The Sub Judge, Harur.

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