

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.06.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.1621 of 2016

Mrs.M. Sharada

.... Petitioner

VS

1. S. Natarajan
2. Kodandam
3. N. Pandyammal

.... Respondents

Civil Revision Petition filed under 227 of the Constitution of India against the docket order dated 11.04.2016 made in I.A.No.138 of 2016 in O.S.No.422 of 2009 on the file of the Sub Court, Tambaram.

For Petitioner : Mr.G. Jayachandran

ORDER

Challenging the order passed by the Sub Court, Tambaram in I.A.No.138 of 2013 in O.S.No.422 of 2009. ordering notice to the defendants, the plaintiff has filed the above Civil Revision Petition.

2. The plaintiff filed a suit in O.S.No.422 of 2009 for recovery of possession and for damages. The plaintiff obtained a decree in O.S.No.422 of 2009 on 20.03.2012 and pursuant to the decree, granted by the trial court, the plaintiff filed an Execution Petition in E.P.No.83 of 2013.

3. The learned counsel appearing for the petitioner submitted that the execution Court ordered delivery and the plaintiff also took possession of the property on 10.03.2016 and the execution petition was closed on 10.03.2016, recording the delivery of possession.

4. Thereafter, the plaintiff filed an application in I.A.No.138/2016 to direct the office of the Sub Court, Tambaram to return the original Sale Deed dated 27.03.1991, marked as Ex.A.2, without ordering notice to the defendants. The learned counsel appearing for the petitioner submitted that as against the judgment and decree passed in O.S.No.422 of 2009, the defendants have not filed any appeal and the decree has become final. Further, the learned counsel submitted that the plaintiff also took possession of the property in the execution proceedings. The learned counsel for the petitioner also submitted that the sale deed dated 27.03.1991 was

marked by the plaintiff as Ex.A.2 in the suit. Since the decree passed in the suit has been satisfied, the petitioner sought for return of the said sale deed.

5. The trial Court ordered notice to the defendants on 11.04.2016. The learned counsel for the petitioner submitted that the third defendant was residing in the plaintiff's property in Plot No.110, and that the third defendant had sold her property in Plot No.20, under a Registered Sale deed dated 12.12.2005 and also vacated the property in Plot No.110. Therefore, the learned counsel for the petitioner submitted that the notice ordered by the trial court could not be served on the defendants. Since the suit ended in favour of the plaintiff and no appeal has been preferred by the defendants, I am of the view that no notice is required to be sent to the defendants for getting return of the original sale deed, marked by the plaintiff herself, as Ex.A.2.

6. In these circumstances, the order dated 11.04.2016, passed by the trial court in I.A.No.138 of 2016 is set aside and the application in I.A.No.138 of 2016 stands allowed. The Sub Court, Tambaram is directed to return the original sale deed, marked as

M. DURAISWAMY,J.,

sr

Ex.A.2, to the plaintiff, by substituting the same with the certified copies, within three days from the date of receipt of a copy of this order. With these observations, the civil revision petition is allowed. No costs.

09-06-2016

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Index:no
website:yes

Note: Issue order copy on 10.06.2016

To

The Sub Court, Tambaram

C.R.P(NPD)No.1621 of 2016