

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.07.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.2141 of 2016
and
CMP No.11190 of 2016

Parameswaran @ Mani

.... Petitioner

vs

1.N. Senthilkumar
2.Saravanan

.... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order of the I Additional Subordinate Judge, Erode dated 11.03.2016 and made in EA No.575 of 2015 in EA No.242 of 2014 in E.P.No.142 of 2008 in O.S.No.285 of 2005.

For Petitioner : Ms.B. Srujana

ORDER

Challenging the order passed in E.A.No.575 of 2015 in E.A.No.242 of 2014 in E.P.No.142 of 2008 in O.S.No.285 of 2005 on

the file of I Additional Subordinate Court, Erode, the Judgment Debtor has filed the above Civil Revision Petition.

2. Pursuant to the decree for money granted in O.S.No.285 of 2005, the decree holder/plaintiff filed an Execution Petition in E.P.No.142/2008 for sale of the property, belonging to the judgment debtor. The property was sold in Court auction and the first respondent was the successful bidder in the auction held on 29.03.2012 and sale in favour of the first respondent was confirmed on 11.06.2012. Thereafter, the Execution Petition was terminated.

3. Subsequently, the auction purchaser filed an application in E.A.No.563/2012 for recovery of possession. Thereafter, the judgment debtor filed an application in E.A.No.242 of 2014 to set aside the exparte decree dated 29.09.2009 passed in E.A.No.242 of 2014 without impleading the auction purchaser, as a party. Hence the auction purchaser filed an application in E.A.No.575 of 2015 to get himself impleaded in E.A.No.242 of 2014.

4. When the sale was confirmed in favour of the auction purchaser on 11.6.2012 and the Sale Certificate was also issued in his favour, the judgment debtor cannot get the sale set aside in his

absence. He is a proper and necessary party so far as the Execution Application in E.A No.242 of 2014 is concerned, after his purchase of the property in the Court auction, held on 29.03.2012. The order passed in the Execution Application cannot be set aside behind the back of the auction purchaser.

5. The Executing Court, taking into consideration of all these aspects, had rightly allowed the application in E.A.No.575/2014. Hence the auction purchaser is a proper and necessary party so far as in the Execution Application in E.A.No.242 of 2014 is concerned and I do not find any reason to interfere with the order passed by the I Additional Subordinate Court, Erode in E.A.No.575 of 2015. The Civil Revision Petition is liable to be dismissed as devoid of merits and accordingly, the same is dismissed. No costs. Consequently, connected CMP is closed.

26-07-2016

sr

Index:no
website:yes

M. DURAISWAMY,J.,

sr

To
The I Additional Subordinate Court, Erode

CRP (NPD)No.2141 of 2016

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C.R.P.(NPD)No.1687 of 2016

05-07-2016