

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2016

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

CRP (NPD) No.632 of 2016

K.Vijayakumar
S/o. Late Kuppusamy
No.61/1, Vasudevanar Extension,
Tiruvanmiyur, Chennai-600 041. .. Petitioner/Auction Purchaser

Vs

1.V.P.Madhava Rao
S/o.Padmanabha Rao
Residing at No.2/448, Second Street,
Srinivasapuram, Kottivakkam,
Chennai – 600 041. .. 1st respondent / 2nd defendant
/ Judgment Debtor

2.Padmalochana Nagarajan
W/o.D.K.Nagarajan
No.4-A, Rose Garden Street,
15th Main, J.P.Nagar, V Phase,
Bengaluru .. 2nd Respondent/2nd planitiff/
Decree Holder

Prayer:- Civil Revision Petition filed under Article 227 of Constitution of India, praying to direct the learned Principal District Judge, Chengleput to dispose the E.A.No.65 of 2012 in E.P.No.2 of 2004 on the file of the learned District Judge, Chengleput, within the stipulated time as fixed by this Hon'ble Court.

For Petitioner

:Mr.G.K.Ilanthiraiyan
for M/s.Sai Bharath and Ilan

ORDER

This Revision Petition has been filed by the third party-auction purchaser seeking direction of the Executing Court to dispose of E.A.No.65 of 2012 in E.P.No.2 of 2004 on the file of the learned District Judge, Chengleput, filed by the judgment debtor.

2.Originally, suit in O.S.No.7939 of 1997 on the file of City Civil Court, Chennai has been filed by the plaintiffs (three in number) against the two defendants.

2.1. The decree holders have filed an application in E.A.No.6104 of 2003 in O.S.No.7939 of 1997 praying to transmit the decree for execution to another Court, where the suit property lies within the local limit of the jurisdiction of the Court and the said application was disposed of with an order directing to transmit the decree.

2.2. The decree holders/plaintiffs filed an Execution Petition in E.P.No.2 of 2004 on the file of Principal District Court, Chengalpattu for attachment and sale of the scheduled property. By the order of the Executing Court, the property was brought to sale. The sale was held on 30.07.2012 in the Court premises and the revision petitioner herein (K.Vijayakumar) is the successful

bidder. The sale amount was deposited by him into the Court and the E.P., was posted for confirmation of sale.

2.3. In the said circumstance, the judgment debtor/1st respondent herein filed an application to set aside the sale on the ground of irregularity in the conduct of sale. The said application was filed in E.A.No.65 of 2012 in E.P.No.2 of 2004 in O.S.No.7939 of 1997 under Order XXI, Rule 89 and Section 151 C.P.C., seeking direction to the second respondent /decree holder (plaintiff) to receive the balance amount deposited and to set aside the sale held in Court on 30.07.2012.

3. It is the contention of the learned counsel for the revision petitioner that even though this application in E.A.No.65 of 2012 was filed in the year 2012, the application has been kept pending all along and that has caused prejudice to the rights of the auction purchaser and to get the delivery of the suit property.

4. It is also represented that the judgment debtor/1st respondent filed yet another application seeking amendment of the description of property, which is also pending in E.A.No.34 of 2015 on the file of Principal District Judge, Chengleput.

5. No prejudice will be caused to the other side, if this Court orders expeditious disposal of both these applications. Therefore, the Executing Court is directed to dispose of both the applications in E.A.No.65 of 2012 in E.P.No.2 of 2004 and E.A.No.34 of 2015 on the file of Principal District Court, Chenglepet, within a period of one month from the date of receipt of a copy of this order. No costs.

01.03.2016

ds

To:

The Principal District Court,
Chenglepet.

S.VIMALA,J.

ds

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