



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.12.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P. (MD) No.1179 of 2015 (NPD)

WEB COPY

V.S.Sridharan

.. Petitioner/Defendant

Vs.

Baby Mehala, W/o.Venugopalan

.. Respondent/Plaintiff

Civil Revision Petition filed under Section 115 C.P.C., to set aside the fair and decretal order, dated 20.10.2014, made in unnumbered E.A.SR.No.64/06-08-2014 in E.P.No.22 of 2009 in T.S.C. O.S.No.714 of 2001, on the file of the I Additional District Judge (PCR), Tiruchirapalli.

For Petitioner

: Mr.VR.Shanmuganathan

For Respondent

: Mr.R.A.Mohanram

ORDER

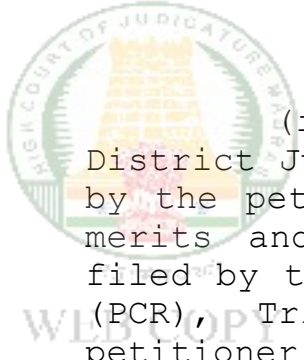
This Civil Revision Petition has been filed to set aside the fair and decretal order, dated 20.10.2014, made in unnumbered E.A.SR.No.64/06-08-2014 in E.P.No.22 of 2009 in T.S.C. O.S.No.714 of 2001, on the file of the I Additional District Judge (PCR), Tiruchirapalli.

2. Facts of the case:-

(i) The petitioner is the defendant/Judgment Debtor in T.S.C. O.S.No.714 of 2001 on the file of the Subordinate Judge, Trichy. The respondent is the plaintiff and she filed the suit for specific performance of agreement of sale in her favour directing the petitioner to execute the sale deed in respect of the suit property after receiving the balance sale consideration.

(ii) The petitioner entered appearance, but failed to file written statement and contest the suit. Therefore, an ex-parte decree was passed on 06.08.2003. The petitioner filed various applications to set aside the ex-parte decree as well as to set aside the various orders passed in the execution court in the E.P. filed by the respondent. In all the applications, the petitioner was unsuccessful, even though he has taken the matter upto Hon'ble Apex Court. After rejecting various objections raised by the petitioner, the Execution Court executed the sale deed in favour of the respondent and also ordered delivery of possession of the suit property.

(iii) The respondent took possession of the suit property. At that stage, the petitioner filed an application in unnumbered E.A.SR.No.64/06-08-2014 in E.P.No.22 of 2009 in T.S.C. O.S.No.714 of 2001 under Section 47 r/w. Section 151 C.P.C. before the Court of I Additional District Judge (PCR), Trichy.



(iv) By order dated 20.10.2014, the learned I Additional District Judge (PCR), Trichy, considered the various issues raised by the petitioner and rejected the said application as devoid of merits and not maintainable, without numbering the application filed by the petitioner. The learned I Additional District Judge (PCR), Trichy, has held that various issues raised by the petitioner were already decided.

3. Against the said order dated 20.10.2014, the petitioner has come out with the present Civil Revision Petition.

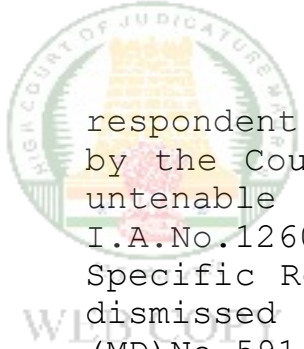
4. The learned counsel for the petitioner reiterated the contentions raised in the grounds and contended that the learned I Additional District Judge (PCR), Trichy, erred in rejecting the application without numbering the same. The learned I Additional District Judge (PCR) ought to have directed the Office to number the application and ought to have decided the matter on merits after hearing the parties. The learned I Additional District Judge (PCR) failed to see that the respondent did not deposit the balance sale consideration within the time stipulated in the decree and therefore, the decree is not executable. The learned I Additional District Judge (PCR) ought to have seen that the E.P. filed in the District Court is not maintainable, when the decree is passed by the learned Subordinate Judge.

5. The respondent filed counter affidavit and furnished the details of various applications filed by the petitioner with a view to prevent the respondent from enjoying the fruits of the decree, dated 06.08.2003. After the decree, the respondent filed E.P. and the sale deed was executed in her favour. She has taken possession of the suit properties as per the order of the Execution Court with the aid of the police.

6. The learned counsel for the respondent relied on the judgments of this Court reported in **2013 (6) MLJ 517 [Dr. Jamuna Vs. Karmegam]** and **2016 (3) CTC 429 [V.S. Sridharan Vs. Baby Mehala]** and submitted that this Court has already decided the issue raised by the petitioner in an unnumbered application in the judgment reported in **2016 (3) CTC 429** [cited supra] (C.R.P.(MD)No.591 of 2016) and prayed for dismissal of the Civil Revision Petition.

7. I have heard the learned counsel for the petitioner and the respondent and perused the materials available on record.

8. From the materials available on record, especially from the affidavit filed by the respondent, it is seen that the petitioner has filed number of applications on various stages with a view to drag on the proceedings and to prevent the respondent from enjoying the fruits of the decree, dated 06.08.2003. The contention of the learned counsel for the petitioner that the



respondent did not deposit the amount within the time limit fixed by the Court and therefore, the decree is not executable, is not untenable and devoid of merits. Earlier, the petitioner filed I.A.No.1260 of 2014 in O.S.No.714 of 2001 under Section 28 of Specific Relief Act to rescind the Contract and the said I.A. was dismissed on 24.02.2016. Hence, the petitioner has filed C.R.P. (MD)No.591 of 2016 before this Court. In similar circumstances, I had an occasion to deal with the case filed by the very same petitioner, wherein this Court considered the contention raised by the petitioner in the Interlocutory Application as well as in the Civil Revision Petition and dismissed the Civil Revision Petition, vide order dated 23.03.2016 and it is reported in 2016 (3) CTC 429.

9. In view of this order as well as the various orders passed by this Court and the Hon'ble Apex Court, the learned I Additional District Judge (PCR) rightly rejected the application filed by the petitioner without numbering the same by giving cogent and valid reason. There is no illegality or irregularity in the said order warranting interference by this Court.

10. In the result, the Civil Revision Petition is dismissed. No costs.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

- 1.The I Additional District Judge (PCR),
Tiruchirapalli.
- 2.The Section Officer,
VR Section, Madurai Bench,
Madurai.

+1 cc to Mr.V.R.Shanmuganathan , Advocate, SR No.83414
+1 cc to Mr.R.A.Mohanram, Advocate, SR No.82828

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AES/RR-ME/3p/5c/19.01.2017

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