



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 16.06.2016

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P. (MD) No.2308 of 2015 (NPD)
and
M.P. (MD) .No.1 of 2015

R.Krsna Murtii

... Petitioner/Petitioner/Plaintiff

Vs.

1.K.Sridhar rao

2.N.Dharshinee

... Respondents/Respondents/Defendants

Prayer: Petition filed under Section 115 of the Code of Civil Procedure, against the fair and decreetal order dated 14.08.2015 made in E.A.No.142 of 2014 in E.P.No.617 of 2014 by the I Additional District Court, Tiruchirapalli.

For Petitioner : Mr.R.Krsna Murtii
Party-in-person
For Respondents : No appearance

ORDER

This revision is directed against the order dated 14.08.2015 made in E.A.No.142 of 2014 in E.P.No.617 of 2014, by the learned I Additional District Judge, Tiruchirapalli.

2.The petitioner is the plaintiff in O.S.No.111 of 2014 and the suit was filed for claiming damages. After contest, the suit was decreed on 10.10.2014 directing the defendant to pay a sum of Rs.12,69,700/- to the plaintiff along with interest at 6% p.a. Based on the decree, the petitioner laid an Execution Petition in E.P.No.617 of 2014. In the Execution Petition, an Execution Application in E.A.No.142 of 2014, was filed to implead the second respondent as party to the Execution Petition. Since that application was dismissed, the present civil revision petition is filed.

3.Mr.R.Krisna Murtii, party-in-person, who appeared before this Court would submit that the petitioner has filed the suit in O.S.No.2953 of 1996, against the first respondent in the year 1996 for permanent injunction and the suit was decreed on 18.11.1998. When the Execution Petition in E.P.No.889 of 2004 was pending, the first respondent in an fraudulent manner sold the property to the



proposed party. Since the sale is hit by Section 53 of Transfer of Property Act, the proposed party, is to be added in this petition.

4.Despite service of notice, the respondents have not chosen to appear either in person or through counsel to contest the petition.

5.Heard Mr.Krsna Murtii, party-in-person, who appeared before this Court and perused the materials available on records.

6.It is a specific case of the petitioner that he was a tenant under the first respondent and he was illegally dispossessed by him. The suit instituted by the petitioner for damages in O.S.No.2953 of 1996 was also decreed. Since it is specifically alleged that the sale is hit by Sections 52 and 53 of the Transfer of Property Act, the second respondent is to be added in the execution application, to give an opportunity to him to prosecute the case.

7.It is not in dispute that the proposed party was also impleaded as respondent in E.P.No.889 of 2004 in O.S.No.2953 of 1996. The learned Judge dismissed the petition holding that the sale was effected in the year 2007, so he is not a necessary party. In my considered view, merits of the case cannot be decided in the interlocutory application. In such view of the matter, the impugned order is liable to be set aside and the same is set aside.

8.In the result, the civil revision petition is allowed. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

The I Additional District Judge,
Tiruchirapalli.

+ 2 CC TO MR.Mr.R.KRSNA MURTII, PARTY IN PERSON IN SR No. 30858

NS

TE/SKS-RR/SAR-I : 29/06/2016 : 2P/4C

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