



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2016

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P(MD)No.1200 of 2016 (PD)

and

C.M.P(MD)No.5903 of 2016

R.Petchimuthu

.. Petitioner/Respondent/Defendant.

vs.

S.Muthuramalingam

.. Respondent/Petitioner/Plaintiff.

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Fair and Decretal order dated 17.08.2015 passed in I.A.No.485 of 2015 in O.S.No.376 of 2014, on the file of the I Additional District Munsif Court, Tirunelveli and allow the present Civil Revision Petition.

For Petitioner :Mrs.Hemasampath
Senior Advocate for
M.Saravanan

For Respondent :Mr.S.Meenakshi Sundaram

ORDER

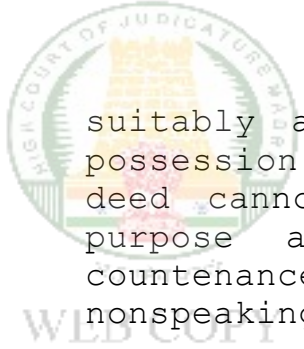
This revision arises out of the order dated 17.08.2015 passed in I.A.No.485 of 2015 in O.S.No.376 of 2014, by the First Additional District Munsif, Tirunelveli.

2.The respondent instituted the suit against the petitioner for recovery of possession and damages for use and occupation of the building at the rate of Rs.1,500/- per month from July 2014. The Suit is being contested by the petitioner by filing a written statement.

3.The case of the plaintiff is that the suit property was purchased from the defendant through an unregistered sale deed, who in turn purchased the property from the previous owner by way of unregistered sale deed. Since the petitioner has denied the title of the plaintiff, an application was filed by the plaintiff in I.A.No.485 of 2015 seeking permission to exhibit the three sale deeds dated 20.05.2008, 07.05.2007 and 15.09.1977. That application came to be allowed on the ground that counter was not filed.

4.Heard Mrs.Hemasampath, learned Senior Advocate for the petitioner and Mr.S.Meenakshi Sundaram, learned counsel for the respondent.

<https://hcservices.ecourt.gov.in/hcservices> 5.The learned Senior counsel appearing for the petitioner would submit that the defendant is specifically disputing the title of the plaintiff. Despite the same, the prayer was not



suitably amended and the suit was filed only for recovery of possession. It is further contended that the unregistered sale deed cannot be produced before the Court even for collateral purpose and the reason assigned in the order cannot be countenanced. It is further submitted that by passing a nonspeaking order, the petition was allowed.

6.Per contra, the learned counsel for the respondent would submit that the defendant sold the property to the plaintiff through unregistered sale deed dated 20.05.2008. The defendant also claims title over the property based on the unregistered sale deed dated 07.05.2007. The vendor of the defendant viz., Ramaiah Thevar has also purchased the suit property through unregistered sale deed dated 15.09.1997. In the affidavit filed in support of the petition, it is specifically stated that the unregistered sale deed marked only for collateral purpose and therefore, no interference is required.

7.It is seen from the records that the petitioner has not filed his counter to the application filed by the plaintiff. The trial Court has allowed the application mainly on the ground that the petitioner has not filed his counter.

8.Considering the above facts, this Court is of the opinion that the petitioner should be given an opportunity to file his counter and the issue can be considered afresh.

9.In such view of the matter, the Civil Revision Petition is allowed and the impugned order is set aside. I.A.No. 485 of 2015 in O.S.No. 376 of 2014, on the file of the I Additional District Munsif, Tirunelveli, is remanded back to the said Court for fresh disposal. The petitioner shall file his counter within a period of two weeks from the date of receipt of a copy of this order. The learned I Additional District Munsif, Tirunelveli, is directed to dispose of the application within a period of four weeks therefrom. No costs. Consequently, the connected C.M.P(MD) No.5903 of 2016 is closed.

Sd/
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar.

To

The I Additional District Munsif Court,Tirunelveli.

+1CC to M/S.S.Subramanian, Advocate, SR.No. 31590

+1CC to M/S.S.Meenakshisundram,Advocate, SR.No. 31524

CRP(MD)No.1200 of 2016(PD)

20.06.2016