



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2016

CORAM

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THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P. (MD) .No.552 of 2016 (NPD)

and

C.M.P (MD) .No.2392 of 2016

Ayyanar

... Petitioner

Vs.

1.Ameenammal Beevi

2.Musthafa

3.Sabarimalai

4.Poornima

5.Sumathi

6.Urarini

... Respondents

Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair order and decreetal order dated 24.02.2016 made in E.A.No.36 of 2016 in E.P.No.155 of 2009 in O.S.No.387 of 2008 on the file of the Principal District Munsif, Srivilliputhur.

For Petitioners : Mr.T.Antony Arul Raj

For R1 : Mr.V.Ramakrishnan

ORDER

The petitioner is third party to the suit. The first respondent filed a suit in O.S.No.120 of 1982 before the Subordinate Court, Srivilliputhur. The suit is for partition and mesne profits.

2.According to the petitioner, in the said suit, preliminary decree was passed on 23.07.1987 granting half share in respect of 4 items of the property. Aggrieved by the preliminary decree, the first defendant in the suit filed an appeal in A.S.No.165 of 1987 before the Additional District Court, Ramanathapuram. The said appeal was partly allowed in respect of the first item of the schedule property. The first respondent questioning the same, filed second appeal in S.A.No.2018 of 1989. The first defendant also filed second appeal in S.A.No.850 of 1990. The second appeal filed by the first respondent was allowed and the second appeal



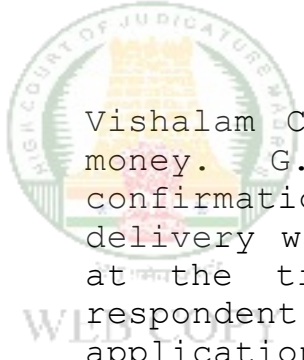
filed by the first defendant was dismissed on 24.01.2004. Whiles, Vishalam Chit Fund Company filed a suit in O.S.No.605 of 1981 against the first respondent and her husband for recovery of money. The said suit was decreed in favour of the Chit fund Company. Subsequently, the said chit fund company filed E.P and the share of the first respondent in the property in Survey No.560/2 situated in Kansapuram Village, Watrap Sub Division, Virudhunagar District, was attached and brought for auction proceedings on 26.03.1993. Sale Confirmation Certificate was issued in favour of G.V.Mahadevan on 18.03.1994. Subsequently, delivery of the property was also effected on 14.08.1995 in E.P proceedings. In so far as the other remaining portion of the properties are concerned, it was allotted to the first defendant viz., Gopalsamy. The petitioner herein purchased other half share from Gopalsamy/First defendant by a sale deed dated 06.06.1996 and also purchased other half share from G.V.Mahadevan, who is the auction purchaser of the half share of the first respondent in O.S.No.605 of 1981.

3. According to the petitioner, he became absolute owner of the entire property measuring an extent of 1 acre 34 cents in S.No.560/2 situated in kansapuram Village, Watrap Sub Division, Virudhunagar District. The first respondent filed a petition for passing of final decree and final decree was passed. Mahadevan, who is the auction purchaser filed a detailed counter affidavit claiming the entire property of the third item in the suit based on the auction purchase in O.S.No.605 of 1981 and $\frac{1}{2}$ share was allotted in favour of his father in the preliminary decree. Mahadevan's claim was rejected. Aggrieved by which, he filed second appeal in S.A.No.1080 of 2009 before this Court and the same is pending. In the mean while, the first respondent filed E.P.No155 of 2009 to execute the decree dated 23.07.1987. At that time, on the application filed by petitioner, the Execution Court granted interim stay for two months vide order dated 22.12.2015. The petitioner filed E.A.No.36 of 2016 before the District Munsif Court, Srivilliputhur, for stay of all further proceedings in E.P., for further period of two months.

4. The learned Judge considered all the materials on record and granted interim stay for a period of two weeks and allowed the application. Against which, the present civil revision petition is filed.

5. I have heard Mr.T.Antony Arul Raj, learned counsel appearing for the petitioner and Mr.V.Ramakrishnan, learned counsel appearing for the first respondent and carefully perused the entire materials on record.

<https://hcservices.courtsofmadras.in/hcservices/>
 6. The learned counsel for the petitioner contended that the learned Judge ought to have seen that the decree holder/first respondent suffered a decree in O.S.No.605 of 1981 filed by



Vishalam Chit Fund against the first respondent for recovery of money. G.V.Mahadevan was the auction purchaser and sale confirmation certificate was also issued on 18.03.1994 and delivery was also effected. The Civil Revision Petition was taken at the time of hearing, the learned counsel for the first respondent has consented for allowing the C.R.P and allow the application in E.A.No.36 of 2016 for granting of stay for a period of two months.

7.Considering the facts and circumstances of the case and also the consent given by the learned counsel for the first respondent, the Civil Revision Petition is allowed and two months time is granted from 18.02.2016.

With the above direction, the civil revision petition is allowed. No costs. Consequently, the connected miscellaneous petition is also closed.

sd/
Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar/

To

The Principal District Munsif,
Srivilliputhur.

+1cc Mr.V.Ramakrishnan Advocate in SR.No.13171/16

+1cc Mr.T.Antony Arulraj Advocate in SR.No.13186/16

SDR:SKS-RR:18.04.2016:3P/4C

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