

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 19-09-2017

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.NPD.No.3455 OF 2017

Namperumal

...

Petitioner

-VS-

1.R.M.Venugopal

2.Shanmugam

...

Respondents

Petition against the order, dated 10.04.2017, passed in R.E.A.No.201 of 2016 in R.E.P.No.19 of 2001 in O.S.No.61 of 1998 on the file of Subordinate Court, Attur.

For petitioner : Mr.P.Jagadeesan

ORDER

This Civil Revision Petition is filed by the auction purchaser, against the order of the Court below, setting aside the sale of the property.

2. The suit was one for recovery of money. The trial Court has decreed the suit as prayed for. According to the petitioner, the respondent/judgment debtor has been protracting the proceedings for 18 years and, when the decree holder filed an application for sale of the immovable property of the respondent, the respondent has

taken a stand that he is not the owner of the property and it is given in partition in favour of his daughters. Since the judgment debtor did not pay money, the property was sold in auction and, thus, the petitioner, who is the auction purchaser, has purchased the property for a sum of Rs.2,36,000/-. Before conformation of the sale, the judgment debtor filed an application under Order 21 Rule 89 of C.P.C., by depositing the amount as stipulated, to set aside the sale, which was ordered. Aggrieved over the order setting aside the sale, the auction purchaser is before this Court, as stated supra.

3. As per Order 21 Rule 89 of C.P.C., any person, claiming an interest in the property sold at the time of sale or at the time of making the application, or acting for or in the interest of such person, may apply to have the sale set aside on his depositing the amount in Court, as stipulated. In other words, the judgment debtor is entitled to redeem his property, by paying the appropriate amount. Accordingly, in this case, the judgment debtor has deposited the stipulated amount and satisfied the provision. Now that the money towards the decree is deposited, the judgment debtor is entitled to recover possession of the property and seek for setting aside the sale. The auction purchaser has not got the sale confirmed within the stipulated period. Therefore, the judgment debtor has invoked the remedy available under Order 21 Rule 89 of C.P.C., and got the protection of his property from being sold in auction. The execution Court has rendered a finding that the auction purchaser would not be prejudiced, as the money deposited by him towards sale fetched additional sum of 5% over and above it.

By so recording, the execution Court has allowed the application, setting aside the sale. I see no reason to interfere with the said finding, as the said reason, in my opinion, is perfectly justified.

4. Civil Revision Petition is, therefore, dismissed, in limine. No costs. Consequently, the connected C.M.P.No.16048 of 2017 is closed.

19-09-2017

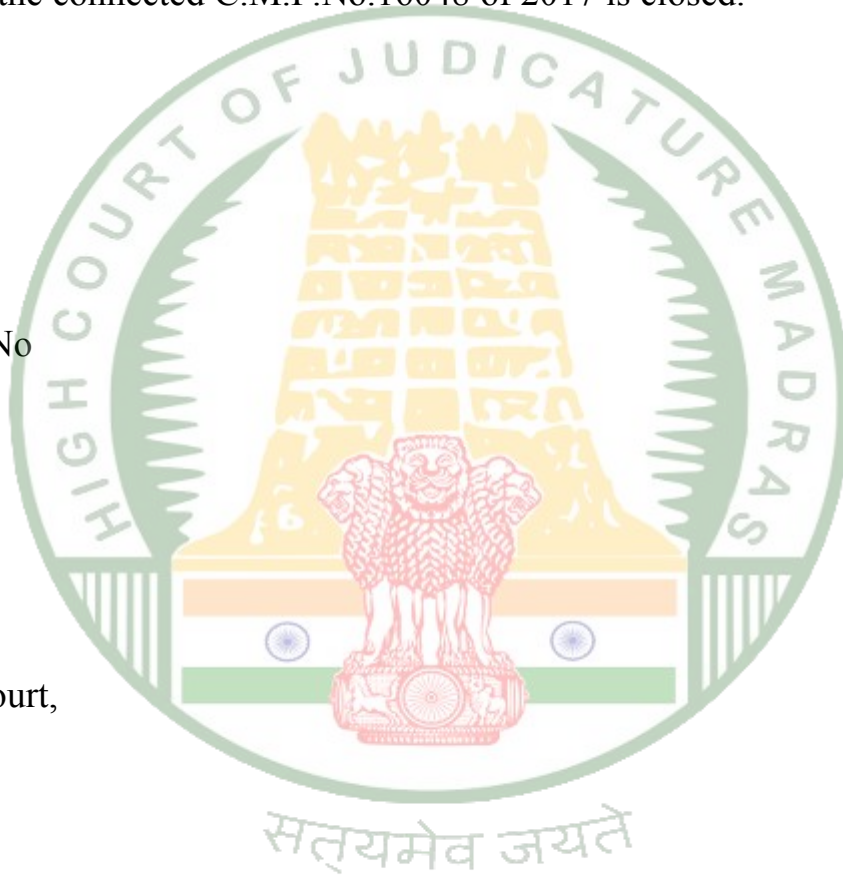
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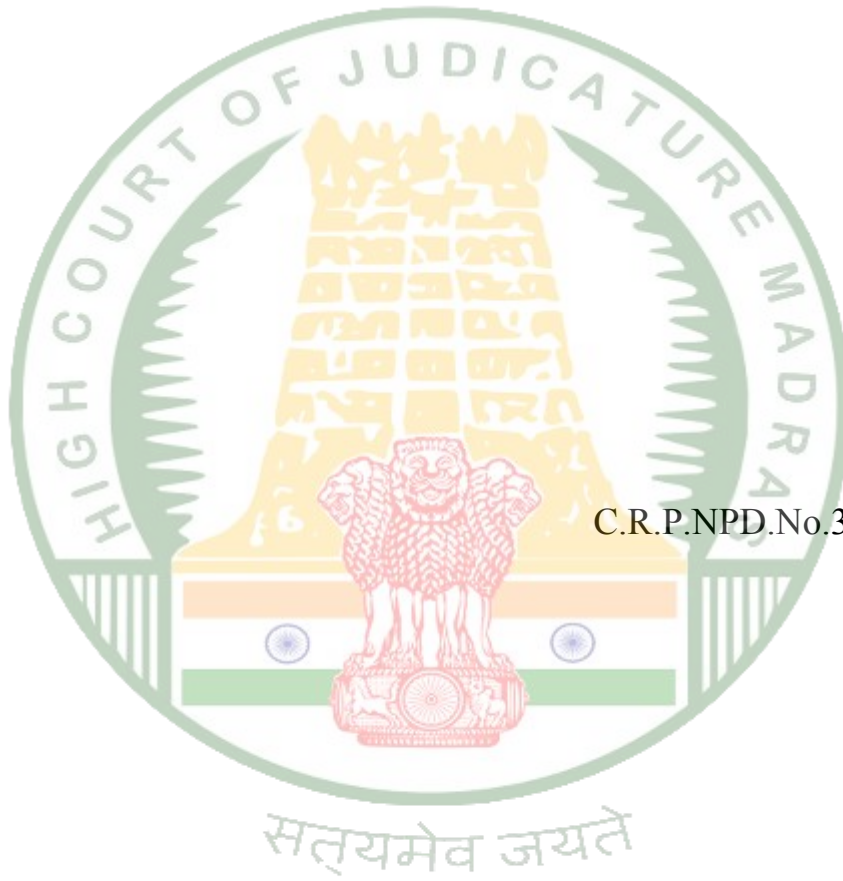
Subordinate Court,
Attur.



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M.GOVINDARAJ,J.

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