

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2017

CORAM

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

Civil Revision Petition (NPD) No.872 of 2017

Mr.D.Ravi ... Petitioner

..VS..

1. G.Gopal
2. Lakshmi
3. Narayanan
4. Kalpana
5. Vijayan
6. Meenakshi
7. Thilagavathi

... Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the second return, dated 23.02.2017 by the learned Principal District Judge, Chengalpattu, in unnumbered E.P.SR.No.5076 of 2016 in O.S.No.487 of 2008 and to direct the learned Principal District Judge, Chengalpattu, to number the Execution Petition in unnumbered E.P.SR.No.5076 of 2016 in O.S.No.487 of 2008 and take the Execution Petition on the file of the Principal District Court, Chengalpattu, within a time stipulated by this Court and allow this Civil Revision Petition.

For petitioner : Mr.P.Dinesh Kumar

ORDER

The petitioner has filed this petition to set aside the second return, dated 23.02.2017 by the learned Principal District Judge, Chengalpattu, in unnumbered E.P.SR.No.5076 of 2016 in O.S.No.487 of 2008 and to direct the learned Principal District Judge, Chengalpattu, to number the Execution Petition in unnumbered E.P.SR.No.5076 of 2016 in O.S.No.487 of 2008 and take the Execution Petition on the file of the Principal District Court, Chengalpattu, within a time stipulated by this Court and allow this Civil Revision Petition.

2. The learned counsel for the petitioner has submitted that a compromise was entered between the parties before the Lok Adalat Court and agreed to withdraw the balance sale consideration of Rs.25,50,000/- deposited in the Court. The said compromise decree was passed by the Lok Adalat on 26.09.2009. Thereafter, the respondent filed I.A.No.673 of 2010 in O.S.No.487 of 2008 and withdrew the entire deposited amount as per the award passed by the Lok Adalat Court, but refused to execute the sale deed in favour of the petitioner.

3. Therefore, the petitioner has filed the Execution Petition before the

Principal District Court, Chengalpattu. The said petition was returned by the Court below on 20.10.2016, with an endorsement for maintainability. Thereafter, the petitioner once again re-presented it before the Principal District Court, Chengalpattu and the same was again returned on 23.02.2017. Aggrieved by this, the petitioner has file the present Civil Revision Petition.

4. Heard the learned counsel for the petitioner and perused the materials on record.

5. The grievance of the petitioner is that a compromise decree was passed by the Lok Adalat on 26.09.2009. Thereafter, the respondent filed I.A.No.673 of 2010 in O.S.No.487 of 2008 and withdrew the entire deposited amount as per the award passed by the Lok Adalat Court, but failed to execute sale deed in favour of the petitioner. Hence, the petitioner has filed the Execution Petition before the Principal District Court, Chengalpattu, but the same was returned by the Court below by stating that the Petitioner failed to satisfy the maintainability of Execution Petition.

6. The learned counsel for the petitioner has relied on the decision of this Court in the decision of Mr.M.Elumalai & another Vs. Mr.S.Rajaram reported in 2014 (5) L.W. 243, wherein it has been observed as follows:

“..... 8.8. Section 21 of Legal Services Authority Act and the dictum laid down in P.T.Thoma's case referred to above, would go to show that the decree passed in the Lok Adalat is deemed to be the decree passed by the Civil Court and therefore, it is an executable decree. The decree holder has rightly filed the Execution Petition....”

7. Similarly, Supreme Court in the case of K.N.Govindan Kutty Menon Vs. C.D.Shaji, reported in 2012 (1) CTC 96, has observed as follows:

“.....17. From the above discussion, the following propositions emerge:

- (1) In view of the unambiguous language of Section 21 of the Act, every award of the Lok Adalat shall be deemed to be a decree of a Civil Court and as such it is executable by that Court.
- (2) The Act does not make out any such distinction between the reference made by a Civil Court and Criminal Court.
- (3) There is no restriction on the power of the Lok Adalat to pass an award based on the compromise arrived at between the parties in respect of cases referred to by various Courts (both Civil and Criminal), Tribunals, Family Court, Rent Control Court, Consumer Redressal Forum, Motor Accidents Claim Tribunal and other Forums of similar Nature.
- (4) Even if a matter is referred by a Criminal Court under Section 138 of the Negotiable Instruments Act, 1881 and by virtue of the deeming provisions, the award passed by the Lok Adalat based on a compromise has to be treated as a decree capable of execution by a Civil Court.”

8. In the light of the above said decision of this Court as well as the Hon'ble Supreme Court, I am inclined to pass the following order:

1. The petitioner is directed to re-present the unnumbered Execution Petition before the Principal District Court, Chengalpattu, within a period of two weeks from the date of receipt of a copy of this Order.
2. Thereafter, the Principal District Court, Chengalpattu is directed to number the Execution Petition without insisting upon the maintainability of the Execution Petition, if it is in order.
3. After Notice served on the respondents, the Court below is directed to dispose of the said application on merits including maintainability of the petition as expeditiously as possible, after providing opportunity to the parties.

9. With the above observations and directions, the Writ Petition is disposed of. No Costs.

09.03.2017

Index:yes/no

Internet:yes

pvs

**Office to Note: Registry is directed to return the
Original Impugned order filed, after obtaining copies.**

To
The Principal District Judge, Chengalpattu

D. KRISHNAKUMAR J.

pvs

C.R.P. (NPD) No.872 of 2017

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<http://www.judis.nic.in>