

THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

Civil Revision Petition No.1013 of 2016
and M.P.No.1 of 2015
in CrI.O.P.No.29727 of 2014

Hohm Sahaj Trust,
Door No.95, Chengam Road,
also known as Manakula Vinayagar 4th Street,
Thiruvannamalai,
Rep. By its Trustee,
Mr.R.Raman Laal ... Petitioner/Plaintiff

- Vs -

Smt.Vanitha Jayapal .. Respondent/Defendant

Prayer:- Petition filed under Section 227 of the Constitution of India seeking to struck off the judgment and decree passed in O.S.No.279 of 2000 dated 26.04.2001 passed by the learned Subordinate Judge at Thiruvannamalai as null and void and not binding on the resondent.

For Petitioner : Mr.R.Singaravelan
for Mr.V.S.Jagadeesan

For Respondent : Mr.S.Giridharan

O R D E R

This Civil Revision Petition has been filed seeking to strike off the judgment and decree in O.S.No.279 of 2000 dated 26.04.2001 on the file of the learned Subordinate Judge, Thiruvannamalai.

2. O.S.No.279 of 2000 has been filed by the petitioner for specific performance of the sale agreement dated 08.07.2000 in favour of the petitioner's trust by the respondent.

3. The trial Court decreed the suit based on the compromise memo filed. Later on, it turned out that the respondent did not engage any counsel and the respondent did not sign the compromise memo. Even the agreement for sale was not signed by her. Therefore, CrI.O.P.No.29727 of 2014 was filed under Section 482 Cr.P.C. seeking a direction to the police to

register F.I.R. based on the complaint of the respondent herein dated 12.09.2014. The said criminal original petition has been disposed of by an order dated 03.12.2014 based on the compromise reached between the petitioner and the respondent herein.

4. It was also agreed by the parties that the respondent did not sign the sale agreement as well as the other consequential legal proceedings. It was also agreed that someone had impersonated the respondent and created the sale agreement and also the subsequent legal proceedings. The petitioner was also made to believe by impersonation that the impersonator was the respondent herein.

5. Now, it is brought to the notice of this Court that in pursuance of the compromise reached between the parties, the possession of the property was handed over to the respondent in 2014 itself. So far as the decree in O.S.No.279 of 2000 is concerned, it is agreed that the same may be set aside as the decree has been obtained by playing fraud by impersonation. It is also agreed upon by the parties that the consequential sale deed executed by the learned Subordinate Judge dated 15.02.2004 shall also stand set aside.

6. The learned senior counsel Mr.Singaravelan appearing for the petitioner and Mr.S.Giridharan the learned counsel appearing for the respondent would submit that in view of the above compromise memo and in view of the factual position, the civil revision petition may be allowed and the decree in O.S.No.279 of 2000 on the file of the learned Subordinate Judge, Thiruvannamalai may be set aside as null and void and also the consequential sale deed executed by the learned Subordinate Judge, Thiruvannamalai dated 15.02.2004, in favour of the petitioner may also be set aside. The consequential patta transfer order made by the Revenue Authorities based on the above sale deed in favour of the petitioner may also be cancelled.

7. In view of the above, the civil revision petition is allowed in the following terms:

(i) The decree and judgment of the learned Subordinate Judge, Thiruvannamalai made in O.S.No.279 of 2000 dated 26.04.2001 is hereby set aside.

(ii) The consequential sale deed executed by the learned Subordinate Judge, Thiruvannamalai in favour of the petitioner's Trust shall also stand set aside.

(iii) The consequential patta transfer order issued by the Revenue Authorities transferring the patta from the name of the respondent to the name of the petitioner's trust shall also stand set aside and the Revenue Authorities shall restore the patta in the name of the respondent forthwith.

(iv) It is made clear that as directed in Crl.O.P.No.29727 of 2014 the police shall continue the investigation and find out the real impersonator and prosecute him/her. Consequentially the connected miscellaneous petition in Crl.M.P.No.1 of 2015 in Crl.O.P.No.29727 of 2014 is closed.

8. Before parting with this order, this Court appreciate the efforts taken by Mr.Raman Laal the then Trustee of the petitioner's Trust who on coming to know that fraud has been played on the petitioner's trust and the respondent, had come forward to settle the whole issue. It is because of him and the learned senior counsel Mr.R.Singaravelan, the learned senior counsel for the Petitioner's Trust, the matter could be settled and this Court appreciate them.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

kk

To

1.The Subordinate Judge,
Thiruvannamalai.

2.The Section Officer,
V.R. Section, High Court, Madras.

+1cc to Mr.S. Giridharan, Advocate Sr. 26197

+1cc to Mr.V.S.Jagadeesan, Advocate Sr. 26032

SKV(CO)
VR(23/5/2017)

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Crl.O.P.No.29727 of 2014

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