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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)No.147 of 2017 (NPD)

and

C.M.P(MD)No.535 of 2017

M.Gandhimathi

.. Petitioner/ Petitioner/Plaintiff

Vs.

R.Ravikumar

.. Respondent/ Respondent/Defendant

PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 11.11.2016 in I.A.No.641 of 2016 in O.S.No.528 of 2016 on the file of the Additional Subordinate Judge, Karur.

For Petitioner : Mr.K.Govindarajan

ORDER

The petitioner has filed this Civil Revision Petition to set aside the fair and decreetal order, dated 11.11.2016 in I.A.No.641 of 2016 in O.S.No.528 of 2016 passed by the Additional Subordinate Judge, Karur.

2.The petitioner is the plaintiff. The respondent is the defendant. Petitioner filed suit in O.S.528 of 2016 for recovery of money for a sum of Rs.1,97,400/- based on the promissory note. The petitioner also filed I.A.No.641 of 2016 for Attachment Before Judgment for the property mentioned in the petition.

3.According to the petitioner, the respondent borrowed money from the petitioner and did not repay the amount. Therefore, she has filed the suit. Now the respondent is tried to alienate the property with an intention to defeat and delay the petitioner realising the fruits of the decree which will be passed ultimately in his favour.

4.The respondent filed counter and denied all the averments stated in the affidavit. Respondent stated that the petition mentioned property does not belong to him. His father purchased the property by the deed of sale, dated 20.03.1995. The petitioner wants to purchase the property from the respondent's father. His father refused to sell the property. Due to the enmity, petitioner



created document and filed the suit. Before the learned Judge, no oral evidence was let in by the petitioner. Petitioner filed two documents and marked as Ex.B1 and Ex.B2 and respondent filed two documents and marked as Ex.R1 and Ex.R2.

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5.The learned Judge considering the averments made in the affidavit and counter affidavit and documents relied on by the parties dismissed the application holding that the respondent is not the owner of the petition mentioned property and therefore, question of alienating or encumbering the said property does not arise.

6.Against the said order of dismissal, the present Civil Revision Petition is filed.

7.The learned counsel appearing for the petitioner submitted that the learned Judge erroneously dismissed the application on the ground that respondent is not owner of the property. The learned Judge failed to see that, if petition mentioned property is encumbered, the petitioner will not be in a position to realise the amount decreed ultimately.

8.I have heard the learned counsel appearing for the petitioner and also perused the entire materials on record.

9.From the document filed by both petitioner and the respondent, the learned Judge has rightly held that the property does not belong to the respondent and dismissed the application. In the circumstances, there is no illegality or irregularity warranting interference by this Court.

10.In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To
The Additional Sub Judge,
Karur.

+1 CC to M/s.K.GOVINDARAJAN, Advocate, SR No. 3934.

AM

PSM/BS/08.02.2017/2P/3C