

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CRP.PD.No.1518 of 2018

R.Vijayalakshmi

.. Petitioner

Vs

E.Elumalai

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to grant extension of time of deposit of the sale consideration of Rs.15,11,250.00/- in the name of the minors viz., 1.E.vineetha and 2.Surendar as per the order of the Principal Judge, City Civil Court, Chennai dated 26.10.2009 made in H.M.O.P.No.202 of 2009.

For Petitioner : Mr. R.Balachandran

ORDER

This Civil Revision Petition has been filed to grant extension of time of sale consideration of Rs.15,11,250.00/- in the name of the minors viz., in the name of the minors viz., 1.E.vineetha and 2.Surendar as per the order of the Principal Judge, City Civil Court, Chennai dated 26.10.2009 made in

H.M.O.P.No.202 of 2009.

2. It is the case of the petitioner that the respondent, who is the owner of the property measuring an extent of one Ground 327 sq.ft. comprised in Town Survey No.25, Soodiammanpet Street, Saidapet, Chennai. The respondent's income is not sufficient to meet the family expenses and for his two children and as such he decided to sell the part of the property. The petitioner was also agreed to purchase the property measuring an extent of 1209 sq.ft. for the sale consideration of Rs.15,11,250.00/-. Since the property belongs to minors, he filed a petition under Section 8(2) of Hindu Minority and Guardianship Act, 1956 before the city Civil Court, Chennai in H.M.O.P.No.202 of 2009 and the same was allowed by on 26.10.2009 with the condition of the sale shall be completed within one month from the date of order and the said sale consideration shall be deposited equally in the name of the minors in Nationalised Bank within one month from the date of order. While being so, the petitioner was not in a position to comply the order immediately and as such, she has approached the learned Principal Judge, City Civil Court, Chennai and sought for extension of time to pay the said sale consideration. As such, she obtained time till 2014, on several counts of permission but unfortunately the petitioner was not in a position to pay the money and deposit the same in the minors accounts. Again the petitioner filed the petition in CMP.SR.No.67391 of 2017 under Section 148 of C.P.C. for further

extension of time and the trial Court has dismissed the said petition. Aggrieved by the said order, the petitioner has filed the present civil revision petition before this Court.

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

4. It is not in dispute that the petitioner has approached the Court below in H.M.G.O.P.No.202 of 2009 seeking permission to sell the property belongs to one Chinnammal and the Court below has granted permission to the respondent subject to certain conditions which reads as follows:

i) Permission is accorded to the petitioner to sell 1209 sq.ft.('N"Schedule property) to R.Vijayalakshmi W/o.Ravi residing at 9/2, Old Mambalam Road, West Mambalam, Chennai 600 033 for Rs.15,11,250/-.

ii) the sale shall be completed within one month, from today.

iii) Copy of the registered sale deed shall be filled within one month from the date of registration of the sale deed/

iv) Within one month from today, Tmt.R.Vajayalakshmi, shall deposit Rs.15,11,250/- in this

Court.

v) On deposit, the said Rs.15,11,250/- shall be deposited equally in a Nationalised Bank, in the name of E.Vinetha and E.Surendar, up to their 18 years of age.,

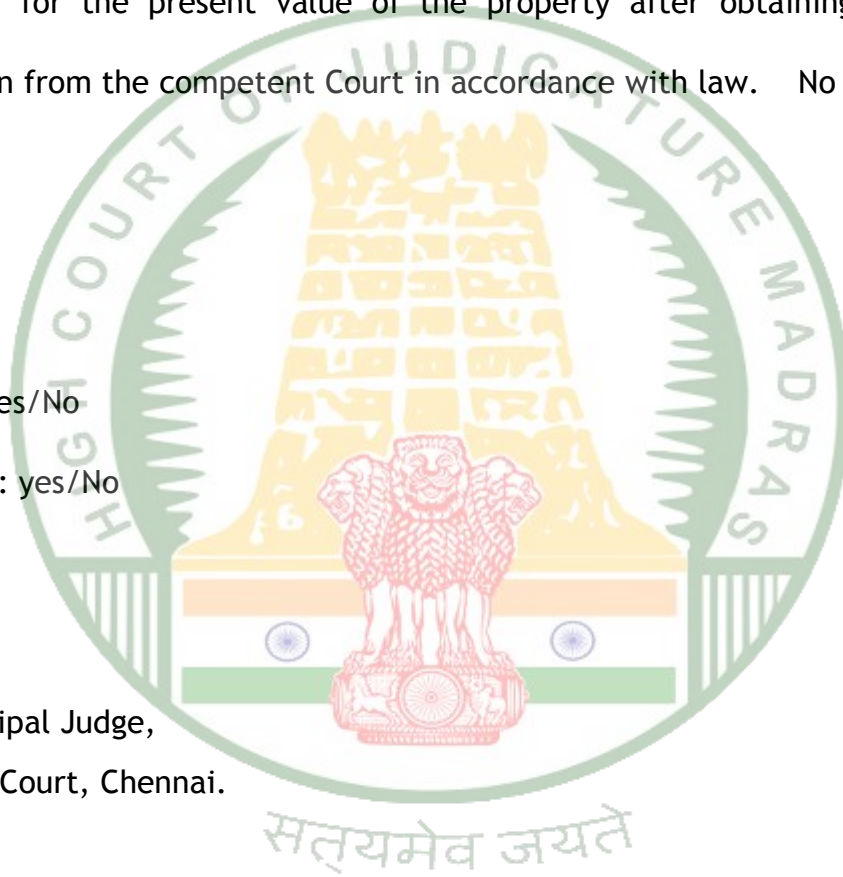
vi) the accrued quarterly interest on the deposit shall be paid to their father and guardian/petitioner B.Elumalai, shall spend it for the benefit of his minor children.

Though the order was passed in the year 2009 itself and granted one month time, the petitioner has not complied with the order for the past nine years. The petitioner filed petitions after petitions for extension of time as such the Court below also granted time till 2014 even after, granting extension of time, previously several occasions, she could not comply with the condition. Lastly, she filed the petition in CMP SR.No.67391 of 2017 seeking extension of time in the year 2017. There is no legal impediment to comply with the conditions imposed by the Court below in H.M.G.O.P.No.602 of 2009 and there is no sufficient cause has been given. Therefore, the learned Trial Judge has dismissed the said petition. Now after nine years value of the property has been increased. Hence, there is no illegality or infirmity in the order passed by the trial Court.

5. In view of the above, this civil revision petition is dismissed. Considering the interest of the minors and due to raise in value of the subject matter of property the permission accorded by Court below dated 26.10.2009 is hereby cancelled. Respondent is at liberty to sell the property to any willing purchaser for the present value of the property after obtaining necessary permission from the competent Court in accordance with law. No costs.

27.04.2018

Index : yes/No
Internet : yes/No
kkd
To
The Principal Judge,
City Civil Court, Chennai.



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P.VELMURUGAN,J.

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