

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.06.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.(PD).No.1604 of 2018

and C.M.P.No.8025 of 2018

V.Kumarasamy

... Petitioner

Vs.

1. S.Santhanam
2. Pachaiyappan
3. Ulaganathan

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order made in I.A.No.880 of 2015 in O.S.No.29 of 1966 on the file of the learned Principal District Munsif, Kanchipuram dated 27.03.2018.

For Petitioner : M/S.Yoga Anandhi

ORDER

The prayer sought for in this revision is to set aside the fair and decretal order dated 27.03.2018 made in I.A.No.880 of 2015 in O.S.No.29 of 1966 on the file of the learned Principal District Munsif, Kanchipuram.

2. One of the brothers of the revision petitioner (died) filed a suit in O.S.No.29 of 1966 before the learned District Munsif, Kancheepuram for partition and separate possession as against the revision petitioner.

3. During the pendency of the suit, the 2nd plaintiff filed an application in I.A.No.303 of 2000 for transferring the O.S.No.29 of 1966 to the file of Sub court, Kancheepuram for auctioning the property and apportioning it to the petitioners and other sharers there in. The suit property is a Rice Mill. Subsequently, suit in O.S.No.54 of 2016 is filed for passing preliminary decree and to appoint an Advocate Commissioner to divide the schedule mentioned properties into four shares.

4. In pursuance of the preliminary decree, an Advocate Commissioner was appointed and he conducted the enquiry and completed the auction. In I.A.No.880 of 2015 in O.S.No.29 of 1966, the Trial Court directed the first respondent herein to deposit the amount Rs.1,06,00,000/- (One crore six lakhs only) before the Principal District Munsif Court, Kancheepuram on or before 05.06.2018.

5. At this stage, the first respondent filed an application under Section 3 of the partition Act in I.A.No.880 of 2015 before the learned Principal District Munsif, Kanchipuram. After giving opportunity on either side, the trial Court allowed the application.

6. Aggrieved against the order dated 27.03.2018, the revision petitioner is before this Court.

7. The learned counsel for the petitioner would submit that the trial Court confirmed the sale price of Rs.1,06,00,000/- (One Crore Six lakhs only) whereas the property is more than Rs.6 Crores. When the petitioner has not produced any documentary evidence and not filed any affidavit, that, he was ready to take up the property for more than the bid amount or the persons other than the person who participated in the Auction was ready to purchase the property more than the amount quoted by the petitioner and the learned Advocate Commissioner erred in conducting auction proceedings, in the absence of other legal heirs those who are having the shares in the property.

8. According to the learned counsel for the respondent due to the pendency of the revision, the auction purchaser has not deposited the

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auction amount which was subsequently confirmed by the trial Court. Subsequently, the matter is adjourned, this Court finds no merits in the revision and finds no reason to interfere with the order passed by the trial Court. The Auction purchaser is hereby directed to deposit the sale amount of Rs.1,06,00,000/- (One Crore Six lakhs only) before the trial Court forthwith in accordance with law.

9. In the result, the Civil Revision petition is dismissed. Consequently, connected Miscellaneous petition is also closed. No costs.

12.06.2018

Index:Yes/No
Speaking order / Non speaking order
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To
The Principal District Munsif,
Kanchipuram.

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