

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.04.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.(NPD)No.3350 of 2016
and CMP.Nos.17104 of 2016 and 12569 of 2017

Pramod Damodaran Nair

.. Petitioner

Vs.

Mohan Tharani

... Respondent

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the order dated 18.08.2015 made in E.P.No.21 of 2013 in O.S.No.14 of 2012 on the file of the District Court, Udhamandalam, The Nilgiris .

For Petitioner : Mr.V.Anand

For Respondent : Mr.Natarajan for
Mr.S.V.R.Ramprasad

ORDER

This Civil Revision Petition has been filed to set aside the order dated 18.08.2015 made in E.P.No.21 of 2013 in O.S.No.14 of 2012 on the file of the District Court, Udhamandalam, The Nilgiris .

2. The defendant in O.S.No.14 of 2012 on the file of the learned District Judge, Udhamandalam, The Nilgiris, is the revision petitioner herein.

3. According to the petitioner, the respondent herein has filed a suit in O.S.No.14 of 2012 seeking recovery of money and the Trial Court decreed the suit. Thereafter, the respondent has filed an Execution Petition in E.P.No.21 of 2013 to grant permission to the petitioner for Bid and set off in E.A.No.25 of 2015 dated 23.04.2015 and the petitioner got purchased the property through Court auction and sale certificate in his favour. Against the order of issuance of sale certificate, the revision petitioner has filed the present civil revision petition before this Court.

4. The learned counsel for the petitioner would contend that the respondent has filed the suit in O.S.No.14 of 2012 and the same was decreed on 12.07.2012. The petitioner entered into an agreement for sale with third parties, even prior to the date of the order of attachment dated 30.10.2013 and as such, the order of attachment passed by the Executing Court is subject to the agreement as per law. Thereafter, the subject matter of the sale certificate issued by the Executing Court is in favour of the respondent. Hence, the impugned order is liable to be set aside.

5. According to the learned counsel for the respondent, the respondent had sought permission of the Execution Court and he purchased the property in

the Court Auction and issuance of sale certificate in favour of the respondent.

6. Heard the learned counsel for both sides and perused the materials available on record.

7. Admittedly, the respondent has filed the suit in O.S.No.14 of 2012 against the petitioner and the same was decreed on 12.07.2012. Subsequently, the respondent filed an Execution Petition in E.P.No.21 of 2013. In that execution proceedings, since he was the decree holder, he got permission to participate in the Court auction. The respondent after filing the application, he got the sale certificate in his favour. The alleged sale agreement in favour of the revision petitioner is unregistered agreement therefore the revision petitioner is not entitled to the relief sought for in the revision.

8. Considering the facts and circumstances of this case, since the petitioner has no valid ground raised in this revision, there is no merits in this revision petition filed by the petitioner. Hence, this civil revision petition is

P.VELMURUGAN,J.

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dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

28.04.2018

Index:Yes/No

Internet : yes/No

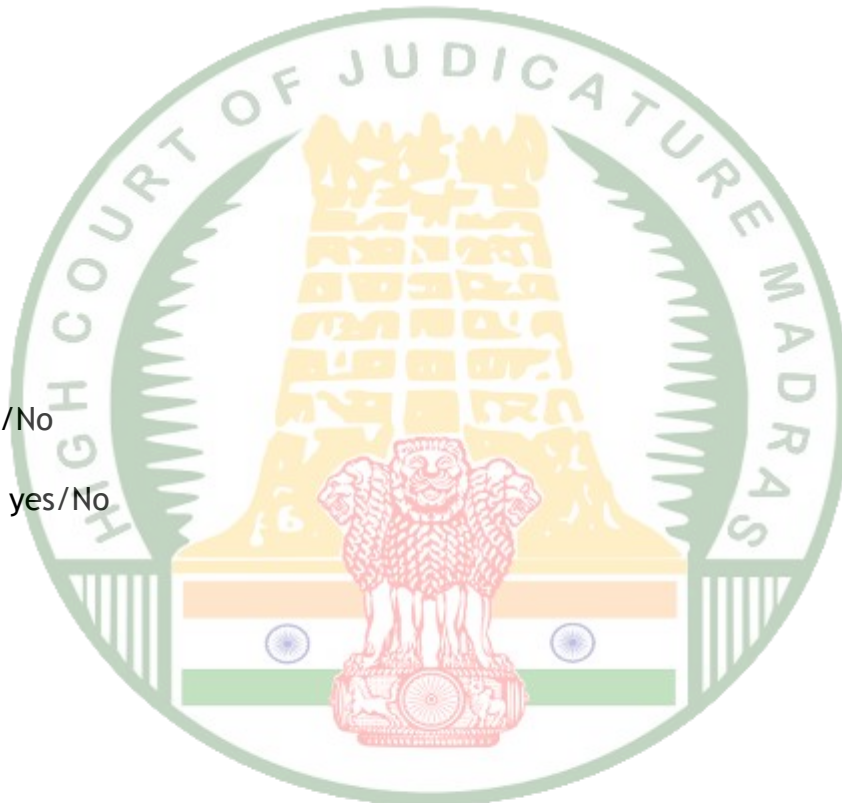
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To

The District Court,

Udhamandalam,

The Nilgiris .



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