



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.R.P. (MD) (PD) No.287 of 2018

and

C.M.P. (MD) .No.1262 of 2018

N.Ramesh

.. Petitioner/Respondent/Defendant

Vs.

1.P.Ganesan

.. 1st Respondent/Petitioner/Plaintiff

2.A.Balasubramani

.. 2nd Respondent

(2nd respondent is impleaded vide Court order, dated 06.04.2018 made in CMP.(MD).No.2200 of 2018 in CRP. (MD) .No.287/2018 by MVMJ)

PRAYER: Petition filed under Article 227 of the Constitution of India, praying to set aside the order, dated 03.02.2018 made in unnumbered E.A., of the year 2018, in E.P.No.11 of 2014 in O.S.No.374 of 2013, on the file of the learned District Munsif, Nilakottai and a direction to number the E.A and dispose the same.

For Petitioner : Mr.G.Ethirajulu

For Respondent No.1 : No appearance

For Respondent No.2 : Mr.R.J.Karthick

ORDER

The petitioner, who is the defendant in the Suit in O.S.No.374 of 2013 and the judgment debtor in E.P.No.11 of 2014 has filed this petition, challenging the order, dated 03.02.2018, passed in unnumbered E.A., of the year 2018, in E.P.No.11 of 2014 in O.S.No.374 of 2013, on the file of the learned District Munsif, Nilakottai.

2. The case of the revision petitioner is that though the revision petitioner filed an execution application under Order 21 Rule 89 and 151 CPC, challenging the sale executed in favour of the 1st respondent/decreed holder, the trial court directed the revision petitioner/defendant to deposit the decree amount of Rs.99,893/- to the 1st respondent/plaintiff and also returned the



said execution application without numbering the same. Hence, the present revision petition has been filed by the petitioner/defendant.

3. I have heard the learned counsel for the petitioner and the learned counsel for the second respondent and perused the records placed before me.

4. On a perusal of the records, this Court finds that the learned Trial Judge simply returned the E.A., even without numbering the same. Once an application is filed in an unnumbered E.A., it is the bounden duty of the Court below, namely, the District Munsif Court, Nilakottai to number the said E.A., and thereafter to pass appropriate orders, after issuing notice to the respondent/plaintiff and without numbering the above said application, the learned Trial Judge would not pass orders on merits of the case. Therefore, I am inclined to pass the following order:

1) This Civil Revision Petition is allowed by setting aside the order dated 03.02.2018, passed in unnumbered E.A. of the year 2018, in E.P.No.11 of 2014 in O.S.No.374 of 2013, on the file of the learned District Munsif, Nilakottai.

2) The learned Trial Judge is directed to number the said execution application, within a period of one week from the date of receipt of the copy of this order and pass appropriate orders after issuing notice to the respondent within a period of two months thereafter.

3) When the matter came up for admission, this Court directed the revision petitioner to deposit the entire EP amount of Rs.99,893/-. Accordingly, the revision petitioner also deposited the said amount. Therefore, the learned Trial Judge is directed to pass appropriate orders in the said EA within a period as stated above.

4) The interim order, dated 08.02.2018, already granted by this Court is no way connected with the order to be passed by the learned Trial Judge in the Execution Application filed by the petitioner.

No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

/True Copy/



The District Munsif,
Nilakottai.

+ 1 CC TO Mr.P.ARUN JAYATRAM, ADVOCATE IN SR No. 60977
+ 2 CC TO Mr.R.J.KARTHICK, ADVOCATE IN SR No. 61092

PJL

TE/KKR/SAR-1 : 09/05/2018 : 3P/5C

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