



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 10.09.2018
DELIVERED ON : 24.10.2018
CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

WEB COPY

C.R.P. (PD) (MD) No.1745 of 2015
and
M.P. (MD) No.1 of 2015

1.S.Mallika
2.S.Pavunammal
3.V.Tamil Selvi

.. Petitioners/Respondents 1 to 3/
Defendants 1 to 3

Vs.

1.T.Dhanalakshmi ...1st Respondent/Petitioner/Plaintiff
2.Sri Subramanianswamy Temple,
Kumaravayalur, Represented by
Its Executive Officer,
Sri Rangam Taluk,
Thiruchirappalli ..2nd Respondent/4th Respondent/4th Defendant

Prayer : This Civil revision petition is filed under Article 227 of Constitution of India, to set aside the impugned order dated 13.03.2014 passed in E.A.No.7 of 2014 in E.P.No.461 of 2012 in O.S.No.198 of 2008 on the file of the III Additional District Judge, Thiruchirappalli.

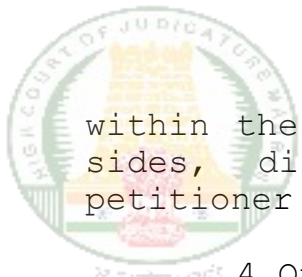
For Petitioners : Ms.T.Banumathy
For Respondent No.1 : Mr.S.Ramesh
For Respondent No.2 : No Appearance

ORDER

Heard Ms.T.Banumathy, learned counsel appearing for the petitioners and Mr.S.Ramesh, learned counsel appearing for the first respondent.

2.This petition has been filed to set aside the impugned order dated 13.03.2014 passed in E.A.No.7 of 2014 in E.P.No.461 of 2012 in O.S.No.198 of 2008 on the file of the Additional District Judge, Thiruchirappalli.

3.The petitioners herein are the defendants 1 to 3 and the first respondent herein is the plaintiff and the second respondent herein is the fourth defendant in the suit. The suit in O.S.No.198 of 2008 is filed seeking for specific relief. The first respondent herein obtained a decree on 14.10.2011. The first respondent herein has filed a petition in E.P.No.461 of 2012 for execution of the decree. The petitioners herein has filed an application in E.A.No.7 of 2014 to dismiss the petition in E.P.No.461 of 2012, stating that the first respondent did not pay the balance of sale consideration



within the stipulated time. The trial Court after considering both sides, dismissed the E.A. Against the dismissal order, the petitioner herein has filed the present petition.

4. On the side of the petitioners, it is stated that a sum of Rs.3,10,000/- (Rupees Three Lakhs and Ten Thousand only) was received as an advance and there was a balance of Rs.7,90,000/- (Rupees Seven Lakhs and Ninety Thousand only) to be paid by the first respondent herein. This amount is not yet disbursed by the first respondent herein. Though the petitioners were ready to comply with the decree, the first respondent did not pay or deposit the balance amount, even after a lapse of one year. The first respondent has not filed any petition for extension of time for deposit of balance amount. The petitioners are entitled to recession of the decree.

5. On the side of the first respondent, it is stated that a sum of Rs.7,90,000/- (Rupees Seven Lakhs and Ninety Thousand only) was deposited on 26.02.2013 vide Cheque No.525 in D R 1014. It is further stated that there is no need to pay or deposit the balance amount. No such objection was raised at the time of contesting the suit. As no such time was fixed by the Court, the respondents did not deposited the balance sale consideration and prayed to dismiss the revision petition.

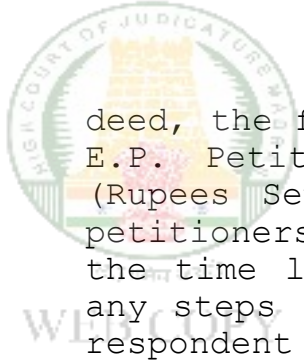
6. On the side of the petitioners, it is stated that the respondents are not entitled for the relief stated in the decree as the sale consideration was not paid within the time limited.

7. The learned counsel appearing for the petitioner relied on the Judgment passed by the Hon'ble Supreme Court of India in the case of P.R.Yelumalai v. N.M.Ravi reported in (2015) 3 MLJ 321 (SC), which reads as follows:

"Held, no evidence to show that plaintiff deposited balance consideration on last day of one month from date of decree-plaintiff clearly defaulted on time of depositing as well as mode of payment -plaintiff failed to comply with decree and dismissed for non-compliance"

8. On the side of the first respondent, it is stated that the suit was for specific performance and the petitioners did not file any appeal and the direction was given only against the petitioners and there was no direction for payment of the balance sale consideration. As no time limited was fixed for deposit of the balance consideration, the above citation is not applicable to this case.

9. Records perused. A perusal of the records reveals that no time limit was fixed in the suit for the deposit of the balance sale consideration. Time was fixed for the petitioners to execute sale deed. As the petitioners did not come forward to execute the sale



deed, the first respondent filed E.P.No.461 of 2012. After filing of E.P. Petition, the first respondent has deposited Rs.7,90,000/- (Rupees Seven Lakhs and Ninety Thousand only) on 26.02.2013. The petitioners have not taken steps for execution of the decree within the time limit fixed by the Court. The petitioners have not taken any steps for getting the order from the Court directing the first respondent to deposit the balance sale consideration. It is admitted that there was no such direction given by the trial Court in the original suit fixing any time limit for payment of the balance sale consideration. In the above circumstances, the prayer sought for by the petitioner is inadmissible. There is nothing sufficient enough to interfere with the order passed by the lower Court. This Civil Revision Petition is dismissed. No Costs. Consequently, M.P.(MD)No.1 of 2015 is closed.

Sd/-
Assistant Registrar(Protocol)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1.The III Additional District Judge,
Thiruchirappalli.

2. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court, Madurai. **(2 Copies)**

+1CC to Ms.T.Banumathy, Advocate, SR.No. 92479

+1CC to Mr.V.RAGHAVACHARI, Advocate, SR.No.91698

C.R.P. (PD) (MD)No.1745 of 2015
24.10.2018

MRN

ES/SKN/RSK/SAR 2/12.11.2018/3P/6C