



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 15.03.2018
CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

C.R.P. (MD) Nos.525 and 526 of 2015 (PD)

V.Ayyachamy

.. Petitioner in both the petitions /
Petitioner / Petitioner

Vs.

Antony

.. Respondent in both the petition /
Respondent / Respondent

COMMON PRAYER: Petitions filed under Article 227 of the Constitution of India, praying to set aside the orders, dated 28.01.2015, passed in unnumbered I.A.Nos. of 2015 in G.W.O.P.No.6 of 2012 on the file of the 1st Additional District Court, Madurai.

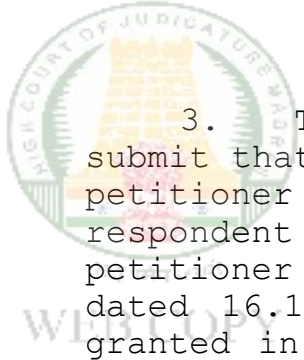
For Petitioner in
both the petitions : Mr.A.Sivaji

For respondent in
both the petitions : No appearance

COMMON ORDER

These revision petitions have been filed by the petitioner as against the orders, dated 28.01.2015, rejecting the interlocutory applications filed by the petitioner seeking extension of time for sale of the property and seeking approval for draft sale deed.

2.The petitioner had filed G.W.O.P.No.6 of 2012 seeking permission to sell the schedule mentioned minor's property to the respondent and to deposit the sale amount into a nationalized bank. The Court below, by order dated 16.12.2013, permitted the petitioner to sell the property of the minor within three months for not less than the value of Rs.3 lakhs and also directed to produce the copy of the sale deed within 3 months before the Court for record purpose and to deposit the sale amount in the Court for depositing the same in a nationalized bank. The Court below had also permitted the petitioner to take interest amount directly from the bank till the minor attains majority. While so, the respondent declined to purchase the property. After finding the intending purchaser, the petitioner has filed petitions seeking extension of time for sale and also seeking approval of the draft sale deed. But, the Court below has rejected the said petitions holding that G.W.O.P. has already been ordered and hence, the said applications are not maintainable.



3. The learned counsel for the revision petitioner would submit that the Court below, by order dated 16.12.2013, directed the petitioner to complete the sale within three months and since the respondent herein expressed his inability to purchase the same, the petitioner could not comply with the direction issued in the order dated 16.12.2013. Therefore, seeking extension of the time limit granted in that order and also seeking approval of the draft sale deed, the petitioner has filed interlocutory applications. But, the Court below, without considering the same, has rejected the said applications as not maintainable, in view of the order dated 16.12.2013. He would further submit that the respondent has no objection in selling the property to the proposed party. Hence, the order, dated 28.01.2015, passed by the Court below may be set aside and the matter may be remitted back to the file of the Court below.

4. Though the notice served to the respondent, he did not appear either in person or through any counsel.

5. According to the petitioner, the direction issued by the Court below in G.W.O.P.No.6 of 2012, by order dated 16.12.2013, has not been complied with by the petitioner, due to refusal of the respondent in purchasing the property. It is seen that he has filed interlocutory applications in the year 2014, seeking extension of time granted in the order, dated 16.12.2013 and seeking approval of the draft sale deed, which has been prepared for execution of sale deed in favour of a proposed party by name P.Sankaralingam. Since the permission for selling the property of the minor had already been granted, the Court below might have considered the case of the petitioner after numbering the interlocutory applications. But, the Court below has failed to do so.

6. In view of the above, the orders, dated 28.01.2015, are set aside and the Court below is directed to number the above applications and dispose of the same on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. No costs. These Petitions are accordingly disposed of.

Sd/-

Assistant Registrar (CSII)

/True Copy/

Sub Assistant Registrar

To

The I-Additional District Judge, Madurai.

+2ccs to Mr.A.Sivaji, Advocate, SR.Nos.55430 and 55431

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RL/4C/2P/SV/MMS/SAR1/18/4/2018