



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 09.03.2018
CORAM :
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

CRP(PD)(MD)No.1395 of 2017
and
CMP(MD)No.6940 of 2017

Sundarraaj

... Petitioner

vs.

1)Velmurugan

2)Shanmugaperumal (Died)

... Respondents

Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order made in I.A.No.272 of 2014 in I.A.No.53 of 2014 in O.S.No.25 of 2014 by the Sub Judge, Aruppukottai, Virudhunagar District, dated 20.03.2017.

For Petitioner

: Mr.C.Suresh Kannan

For R1

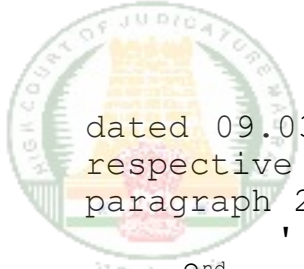
: Mr.V.Perumal

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order dated 20.03.2017 made in I.A.No.272 of 2014 in I.A.No.53 of 2014 in O.S.No.25 of 2014 by the learned Sub Judge, Aruppukottai, Virudhunagar District.

2.The 1st respondent filed a suit in O.S.No.25 of 2014 on the file of the Sub Judge, Aruppukottai, for recovery of loan amount against the 2nd respondent on the basis of pro-note issued by the 2nd respondent to the 1st respondent as security. Thereafter, the 2nd respondent neither paid interest amount nor refunded the loan amount and therefore, the 1st respondent filed the above suit for recovery of loan. The 1st respondent also filed I.A.No.53 of 2014 seeking attachment of the 2nd respondent's property and the same was allowed by the learned Judge and the property was attached by the Sub Court, Aruppukottai, by order dated 25.03.2013, against which, the petitioner filed I.A.No.272 of 2014 for releasing of the attachment of the suit property and the same was dismissed by the learned Judge by the order dated 20.03.2017, holding that the petitioner has not proved he purchased the suit property before attachment. According to the petitioner, he purchased the suit property from the 2nd respondent even before the attachment on 14.02.2014.

3.While the present revision petition was pending, the 2nd respondent who is none other than the brother of the 1st respondent died in the year 2017 and therefore, the petitioner with an intention to settle the issue amicably, entered into a compromise with the 1st respondent and to that effect, a joint compromise memo



dated 09.03.2018 signed by the petitioner, 1st respondent and their respective counsels has been filed before this Court, wherein, at paragraph 2, it has been stated as follows:-

''2.It is submitted that in these circumstances, the 2nd respondent who is the brother of the 1st respondent, died in the year 2017. Now, the petitioner want to settle the issue amicably, therefore, on 05.07.2017, the petitioner paid Rs.80,000/- to the 1st respondent and on 10.01.2018 also the petitioner paid Rs.1,20,000/-. Therefore, the petitioner paid a total sum of Rs.2,00,000/- to the 1st respondent. It is submitted that in view of the above, the 1st respondent herein further reinforces his No Objection in set aside the order in I.A.No.272 of 2014 as mentioned supra and allowing the present Civil Revision Petition.''

4.Considering the fact that the petitioner paid a sum of Rs.2,00,000/- to the 1st respondent on the above mentioned dates and that the 1st respondent has given no objection to set aside the order in I.A.No.272 of 2014, this Civil Revision Petition is allowed in terms of the joint compromise memo dated 09.03.2018 and the impugned order dated 20.03.2017 made in I.A.No.272 of 2014 in I.A.No.53 of 2014 in O.S.No.25 of 2014 by the learned Sub Judge, Aruppukottai, Virudhunagar District, is set aside. The joint compromise memo dated 09.03.2018 shall form part of record. A memo dated 24.11.2017 has also been filed by the counsel for petitioner stating that pending this revision petition, the 2nd respondent namely, Shanmugaperumal passed away without any direct legal heirs. The said memo is also placed on record. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

Enclosure : Xerox Copy of Compromise Memo

To

The Sub Judge,
Aruppukottai,
Virudhunagar District.

+1cc to M/S.V.Perumal, Advocate SR.No. 54709

CRP(PD) (MD)No.1395 of 2017