



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 09.08.2018
CORAM :
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP (MD)No.1997 of 2016 (NPD)

M.Jeyabalan

....Revision Petitioner/
Judgment Debtor/Defendant

Vs.

1.Rajendran ...1st Respondent/Decree Holder/Plaintiff
2.Santhanaraj ... 2nd Respondent/Auction Purchaser/Third Party

Prayer : This Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the petition and order dated 06.07.2016 passed in E.A.No.62 of 2016 in E.A.No.25 of 2015 in E.P.No.54 of 2011 in O.S.No.25 of 2004 on the file of the Subordinate Judge, Virudhunagar.

For Petitioner : Mrs.P.Jessy Jeeva Priya
for Mr.G.Aravinthan

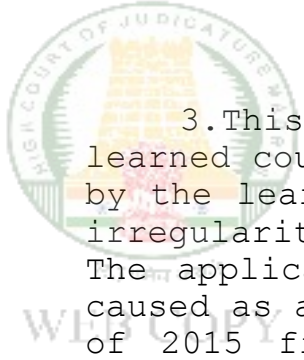
For Respondents : Mr.P.Arun Jeyatram for R1

Mr.R.Vijyakumar for R2

ORDER

The revision petitioner is the judgment debtor who suffered a money decree in O.S.No.25 of 2004. The said money decree has become final. To execute the same, EP.No.54 of 2011 was filed. The revision petitioner's property was brought to sale. The second respondent herein has purchased the property in the auction held on 19.03.2015. To set aside the said auction sale, the revision petitioner filed E.A.No.25 of 2015 under Order 21 Rule 90 of CPC on 15.04.2015. During the pendency of the said E.A, the present E.A.No.62 of 2016 came to be filed for examining the court bailiff. According to the revision petitioner, the bailiff did not affix the notice properly and the details regarding the person who is said to have done the tom-tom was not also not given. Alleging such irregularities, the present E.A has been filed. The Court below by order dated 29.06.2016 dismissed the E.A.No.62 of 2016. The same is assailed in this revision petition.

2.The learned counsel for the revision petitioner would point out that the petitioner was entitled to examine the court bailiff in order to substantiate his allegation that certain irregularities were committed during the sale proceeds.



3.This Court is unable to agree with the said submission of the learned counsel for the revision petitioner. As rightly pointed out by the learned counsel for the auction purchaser mere commission of irregularities or even fraud is not sufficient to set aside a sale. The applicant must specifically plead that substantial injury was caused as a whole. This Court went through the contents of E.A.No.25 of 2015 filed by the revision petitioner for setting aside the auction sale. The revision petitioner had only highlighted some of the omissions that had taken place in the sale process. The revision petitioner had not alleged that he had suffered substantial injury as a result. More than anything else, even the valuation of the property according the revision petitioner has not been spelt out.

4.Therefore, this Court is of the view that the very filing of E.A.No.62 of 2016 is only an attempt to drag on the proceedings and an endeavour to stall the auction purchaser from realising the fruits of his purchase. Therefore, the court below was justified in dismissing the application filed by the revision petitioner. The findings of the court below are definitely sound in law.

5.Concurring with the same, this Civil Revision Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

The Subordinate Judge, Virudhunagar.

+1CC to Mrs.P.Jessy Jeeva Priya, Advocate, SR.No.77833

+1CC to Mr.R.Vijyakumar, Advocate, SR.No. 77896

CRP (MD)No.1997 of 2016 (NPD)
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