



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 18.07.2018

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THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

C.R.P. (MD) (NPD) No.2460 of 2016

V.Veluchamy

.. Revision Petitioner

vs.

1. Sri Sooravali Subbaier Trust,
Through its Managing Trustee,
No.26, Koodal Alagar Perumal Koil Street,
Madurai.

2. Raghavan

.. Respondents

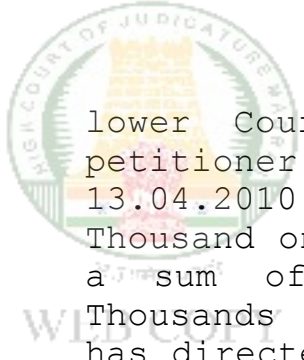
PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, against the order and decreetal order dated 15.07.2016 passed in I.A.No.72 of 2016 in I.A.No.135 of 1995 in O.S.No.13 of 1932 on the file of II Additional Sub Court, Madurai.

For Petitioner	: Mr.M.Thirunavukkarasu
	for R.Devaraj
For Respondents	: Mr.J.Barathan (for R1)
	No Appearance (for R2)

O R D E R

This Civil Revision is directed against the order made in I.A.No 72 of 2016 dated 15.07.2016 on the file of the II Additional Sub Court, Madurai which was filed to reopen the I.A.No.135 of 1995 to deposit the sale price of Rs.18,20,000/- (Rupees Eighteen Lakhs and Twenty Thousands only).

2.The Revision petitioner herein is a cultivating tenant under the 1st respondent trust and the landed property that belonged to the trust to an extent of 91 Cents is in exclusive possession of the petitioner. When the Revision petitioner has expressed his willingness to purchase the land, the trust has moved Interlocutory Application in I.A.No135 of 1995 before the



lower Court seeking permission to sell the property to the petitioner and the same was allowed by the lower Court on 13.04.2010 by fixing sale price of Rs.20,000/- (Rupees Twenty Thousand only) per cent and total sale price for 91 cents comes to a sum of Rs.18,20,000/- (Rupees Eighteen Lakhs and Twenty Thousands only). In its order dated 13.04.2010, the lower Court has directed the petitioner to deposit the above sale price within a period of 15 days. But due to financial constraint, the petitioner was not in a position to deposit the sale price within the time and even after extension of the time, the petitioner could not be in a position to arrange the funds. As a result, the application for extension of time was closed on 24.10.2010. To re-open the application, in I.A.No 135 of 1995 to deposit the sale price, the petitioner has filed another application in I.A.No.72 of 2016.

3.The application in I.A.No.72 of 2016 was resisted by the respondent trust mainly on the ground that the petitioner want to deposit the meager amount of Rs.18,20,000/-(Rupees Eighteen Lakhs and Twenty Thousands only) that was fixed by the lower Court six years earlier and the Market value of the property is raised many fold. In the event of re-opening the I.A.No.135 of 1995, the trust will suffer irreparable loss and incalculable harm. Having condoned the delay in representation, the lower Court has dismissed the application on the main ground that the offer of the petitioner herein to deposit the sale price after lapse of nearly 5 years and after escalation of its value can be no stretch of imagination be said to be beneficial for the trust.

4.Aggrieved over the dismissal of I.A.No.72 of 2016, this Civil Revision Petition is filed.

5.I heard Mr.M.Thirunvukkarasu, learned counsel appearing for the revision petitioner and Mr.J.Bharathan, learned counsel appearing for the 1st respondent and perused the entire materials available on record.

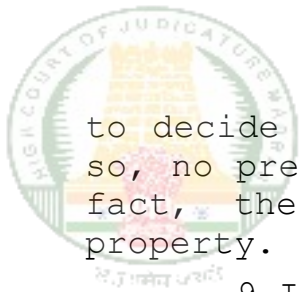
6.The learned counsel for the petitioner has submitted that the application in I.A.No.72 of 2016 was objected by the 1st respondent trust mainly on the ground that the market value of the property is raised many fold and as such, if the application is allowed to be reopened for depositing the sale price fixed six years earlier, the trust will suffer lot and irreparable loss would be caused to the trust. Taking into account, the reasonable demand made by the 1st respondent trust, now the petitioner is preferred to deposit the sale price in terms of present guideline value of the property. The present guideline of the property is Rs.569/- per sq. ft., however, the petitioner is willing to purchase at the rate of Rs.575/- per sq. ft. The total sale price for 91 cents comes to Rs.2,28,13,700/-(Rupees Two Crores Twenty Eight Lakhs Thirteen Thousand and Seven Hundred only). To that effect the revision petitioner has filed an affidavit dated



17.07.2018 before this Court. Further, the learned counsel for the petitioner stressed upon this Court to issue direction to the Sub-Registrar concerned to register the sale deed as and when the document is presented to ensure the hurdle free registration.

7. The learned counsel for the 1st respondent submitted that the application came to be filed belatedly and if the same is allowed the 1st respondent trust would be affected, since the present market value is more than the amount fixed in the year 2010. But with regard to the affidavit filed by the petitioner herein, he said the sale price as proposed by the petitioner in his affidavit is quite reasonable.

8. I have carefully considered the rival submissions on either side and perused the entire materials available on record. Admittedly, the petitioner is a cultivating tenant under the 1st respondent trust and the property is in exclusive possession of the petitioner till today. Considering the right of the cultivating tenant over the property, the 1st respondent trust has come forward to sell the property to him and accordingly interlocutory application in I.A.No135 of 1995 was moved by the 1st respondent trust and same was allowed by the lower Court by fixing sum of Rs.18,20,000/- as sale price for 91 cents. It is seen from the records that since the petitioner has not deposited the sale price, even after time was extended for few times, due to financial constraint and his last application for extension of time for deposit was closed. To re-open the same, an another application in I.A.No.72 of 2016 was filed and the same was dismissed mainly on the ground that the market value of the property is increased and had the petitioner deposited the sale price in time, the trust would have fetched considerable amount as interest. Also the 1st respondent trust has raised objection before the lower Court that the sale price fixed six years earlier is meager amount. During the course of arguments, the petitioner has filed an affidavit to the effect that he is preferred to purchase the property at the rate of Rs.575/- per sq. ft. which is more than the present guideline value and it comes to Rs.2,28,13,700/-/- (Rupees Two Crores Twenty Eight Lakhs Thirteen Thousand and Seven Hundred only) for 91 cents of land that belongs to the 1st respondent trust. It is also not disputed that the present market value of the property is more or less same as that of the guideline value. The sale price as proposed by the petitioner is 20 times more than the sale price fixed by the lower Court six years earlier and furthermore, the 1st respondent has not objected the sale price which the petitioner is willing to deposit. Taking into consideration of the fact that the petitioner has filed an affidavit stating that he is ready and willing to deposit the above said amount of Rs.2,28,13,700/- as sale price, therefore, this Court deem fit and proper to allow the civil revision petition by permitting the petitioner to deposit the sale price before the lower Court within a stipulated period without ordering once again to re-open the I.A.No.135 of 1995 and



to decide the same afresh would cause unnecessary delay. By doing so, no prejudice would be caused to the 1st respondent trust and in fact, the trust would get the present market value of the property.

9. In view of the forgoing reasons, I am inclined to allow this Civil Revision Petition with the following directions:

(a) The petitioner is directed to deposit the sale price of Rs.2,28,13,700/- (Rupees Two Crores Twenty Eight Lakhs Thirteen Thousand and Seven Hundred only) before the learned II Additional Sub Judge, Madurai to the credit of the Suit in O.S.No.13 of 1932 within a period of two months from the date of receipt of a copy of this order.

(b) The 1st respondent is directed to execute a registered sale deed infavour of the petitioner in respect of property situate at Tallakulam Village, Madurai North Taluk in R.S.No.113/3 to an extent of 91 Cents within a period of 15 days from the date of deposit of the sale price.

(c) The Sub-Registrar concerned is directed to register the sale deed in the name of the petitioner in respect of above mentioned property as and when the document is presented for registration. No costs.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

The II Additional Subordinate Judge,
Madurai.

+ 1 cc TO Mr.T.R.Jeyapalam , Advocate in SR No. 73799
+ 1 cc TO Mr.M.Thirunavukkarasu , Advocate in SR No. 73660

vsv

AE/RP/SAR4/27.07.2018/4P/4C

C.R.P. (MD) (NPD) No.2460 of 2016
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