

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition Nos.843, 847, 916 and 933 of 2018

COMMON ORDER:

Aggrieved by the dismissal of the claim petitions filed under Order XXI Rules 58 and 96 read with Rules 101 and 102 of the Code of Civil Procedure, even at the threshold without numbering the application and without holding an enquiry, the third parties, who set up independent claims, have come up with the above revision petitions.

2. Heard Mr. P.S.P. Suresh Kumar, learned counsel for the petitioners and Mr. Vedula Venkata Ramana, learned senior counsel appearing for the 1st respondent-decree holder.

3. The timeline of events in this batch of cases is sufficient for the disposal of the contentions raised by the learned counsel for the revision petitioners and hence, it is stated as follows:

- 1) the 1st respondent herein entered into an agreement of sales with the 2nd respondent herein on 08-02-2014 and 13-02-2014;
- 2) But, by that time the 2nd respondent had already entered into an agreement of sale with the petitioners herein on 27-06-2013 and this fact was suppressed by the 2nd respondent to the 1st respondent;
- 3) Despite having a prior agreement of sale, the petitioners kept quiet. However, the 1st respondent filed suits for specific performance.
- 4) The suits were decreed on 18-01-2016, 20-01-2016, 24-03-2016 and 06-07-2015 respectively and so far, no notice have been served in any appeal filed by the 2nd respondent herein;

5) It appears that the petitioners got a sale deed executed in February, 2016 from the 2nd respondent, after one month of the decree and attempted to get it registered. When the Sub-Registrar refused registration, the petitioners came to this court by way of writ petition, secured an order and got the sale deed registered on 30-12-2016.

6) The 1st respondent, as a decree holder filed E.P.No.80 of 2016. In the said E.P., the petitioners filed a claim petition on the ground that they are third party *bona fide* purchasers for valuable consideration without notice. The Executing Court rejected the application as not maintainable either under Section 47 or under Order XXI Rule 58 or under Order XXI Rule 96 read with Rules 101 and 102 CPC. Therefore, the petitioners are before this Court.

4. The contention of the learned counsel for the petitioners is that even the third party purchasers, if they are *bona fide* purchasers for valuable consideration without notice, are entitled to maintain a claim petition and that the Court below was clearly in error in rejecting the application as not maintainable.

5. But I do not think that I need to go into that legal question, in the light of the conclusions that flow out of the timeline of events, which I have given above. The timeline of events show that despite being a prior agreement holder, if that is true, the petitioners did not file any suit for specific performance. The 2nd respondent, who is the agreement vendor, is said to have executed a sale deed in favour of the petitioners, only after suffering a decree for specific performance. In other words, on the date on which the 2nd respondent put his pen

on paper to sign sale deeds in favour of the revision petitioners, the 1st respondent was already holding a decree for specific performance.

6. No person can be allowed to defeat the rights of a decree holder, except when he has challenged the decree in the manner known to law. It is not the case of the petitioners that there was an appeal against the decree for specific performance and that there was any stay of execution.

7. In such circumstances, even if the claim petitions were held to be maintainable, the Executing Court could not come to any other conclusion than the one to which it has come to.

Hence, all the Civil Revision Petitions are dismissed. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

Date: 31-08-2018

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