

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

C.R.P. (NPD) No.4220 of 2008
and M.P.No.1 of 2008

Salma Beevi

.. Petitioner

Vs.

1. Sri Durga Finance Corporation
rep. By its Foreman
Kamarajar Street,
Villupuram.
2. Perumal
3. S.Ibrahim
4. Sarbuddin

.. Respondents

PRAYER: Civil Revision Petition filed under section 115 of Code of Civil Procedure against the fair and decreetal Order dated 18.07.2008 passed in E.A.No.496/2003 in E.P.262/95 in O.S.No.136/89 on the file of the Principal Sub Court, Villupuram.

For Petitioner : M/s.R.Meenal

For Respondents : R2 - No appearance
R3 and R4 – given up

ORDER

This revision petition is filed against the fair and decreetal Order dated 18.07.2008 passed in E.A.No.496/2003 in E.P.262/95 in O.S.No.136/89 on the file of the Principal Sub Court, Villupuram.

2. The Judgement Debtor has filed an application to set aside the sale on the ground that the property sold by the Court which belongs to one Abibunisha, when the property has not been properly identified. Further, the property was valued as Rs.9,00,000/- and it was sold for lesser amount. Hence, he prayed to set aside the same.

3. The Trial Court has considered the entire issue and taken note of the conduct of the petitioner. The Trial Court has observed that there is no dispute with regard to the identity of the property. The petitioner herself has admitted that the property has been attached and sold by the Court and held that if somebody has right to claim the share, it is for them to workout the share and not by the Judgement Debtor.

4. Heard the learned counsel appearing for the revision petitioner and the learned counsel appearing for the respondents and also perused the materials available on record.

5. The learned counsel appearing for the revision petitioner contended that the Abibunisha is also having share. Therefore, the sale of such property by the Court is not valid. Further, the value of the property is also more than Rs.9,00,000/- but it was sold for lesser value.

6. It is to be noted that the Trial Court has clearly taken note of the conduct of the revision petitioner with regard to the identity of the property. In fact, there is no identity dispute in the property. In the evidence, she has admitted that only the property enjoyed by her was attached, if at all, any third party has right over the property and it is for them to seek a partition in the property, not by the Judgement Debtor. The Judgement Debtor cannot assail the sale and espouse the cause of somebody's right in the suit property. Similarly, there is no materials shown that the property worth about Rs.9,00,000/- and sold for lesser value.

N.SATHISH KUMAR, J.

msv

7. In view of the above, this Court does not find any illegality in the order passed by the trial Court. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

25.03.2019

msv

Index:Yes/No
Internet:Yes/No
Speaking order:Non-speaking order

To
The learned Principal Sub Court,
Villupuram.



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