

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

C.R.P. (NPD) No.353 of 2010 &

M.P.No.1 of 2010

Mr.D.Vajravelu

... Petitioner

Vs.

1. Mrs.Thagira
2. Mr.Jakria
3. Ms.Muhira
4. Ms.Ayisha

.. Respondents

PRAYER: Civil Revision Petition filed under section 115 of Code of Civil Procedure to set aside the Order dated 23.04.2007 made in R.E.P.No.392 of 2005 in O.S.No.741 of 2004 on the file of the Principal District Munsif Court, Salem.

For Petitioner : Mr.A.P.Srinivas

For Respondents : Mr.V.Rajesh

ORDER

This revision has been filed as against the Order of the Execution Court in closing the execution proceedings, which is filed seeking attachment of the property.

2. The Execution Court has found that the property sought to be attached has already been sold much prior to the judgment and the judgment debtor has no title or interest in the property sought to be attached. As against which, the present Revision petition has been filed.

3. It is well settled that if a property of the judgment debtor sought to be attached, the judgment debtor should have some right over the property. Even before the judgment, the property has been sold long back and the judgment debtor has divested his title in the property. As long as such transfer is not avoided under section 53 of the Transfer of Property Act, this transfer cannot be said to be invalid, since no interest, whatsoever of the judgment debtor is available in the property. Hence, I do not find any infirmity or illegality in the Order passed by the Execution Court in closing the execution proceedings.

4. Accordingly, this Civil Revision Petition is dismissed and the Order of the Execution Court is confirmed. Consequently, the connected miscellaneous petition is closed. No cost.

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To

The Principal District Munsif,
Salem.

N.SATHISH KUMAR, J.

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