

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.PONGIAPPAN

Civil Revision Petition (NPD) No.3641 of 2013

and

M.P.No.1 of 2013

Subramanian

Petitioner

Vs

1. Nagaraj

2. Nedunjezhian

Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order of proclamation and sale of the property of the petitioner on 11.09.2013 made in E.P.No.104 of 1997 in O.S.No.1 of 1995 dated 29.07.2013, on the file of Principal Subordinate Court, Tindivanam.

For Petitioner : Mr.V.Bhiman

For Respondents : No appearance

ORDER

The Civil Revision Petition has been preferred by the petitioner seeking the relief to set aside the order of proclamation and sale of the property ordered in E.P.No.104 of 1997 in O.S.No.1 of 1995 dated 29.07.2013, by the learned Principal Subordinate Judge, Tindivanam.

2. The petitioner herein is the judgment debtor in EP No.104 of 1997 in OS No.1 of 1995 on the file of Principal Subordinate Court, Tindivanam. He has preferred this Civil Revision petition challenging the order of proclamation and sale of property belongs to the petitioner on 11.09.2013.

3. Today when the Civil Revision Petition is came up for hearing, the learned counsel appearing for the petitioner alone present. There is no representation on the side of the respondents. The learned counsel appearing for the petitioner made a submission that before the trial court, the decree holder/2nd respondent initiated the execution proceedings for the recovery of Rs.30,000/-(Rupees Thirty Thousand only). Based on the decree passed in OS No.1 of 1995 and subsequent to passing of an order of proclamation and sale, the judgment debtor has preferred this Civil Revision Petition and when at the time of admitting this Civil Revision petition, on 25.09.2013, this Court ordered for an interim stay with a condition that the petitioner has to deposit a sum of Rs.30,000/- to the credit of E.P.No.104 of 1997, on the file of Principal Subordinate Court, Tindivanam, within a period of two weeks from the date of receipt of copy of the order. Further it was ordered that failing to adhere the above order leads to dismissal of the interim stay granted by this Court.

4. In obeying the order passed by this Court dated 25.09.2013, the petitioner herein has deposited Rs.30,000/-, which is equivalent to decree amount. In order to show his bonafideness, he has also produced the 'C.C.D Account, Remiter copy' L.O.No.306, dated 09.10.2013 given by the Sherishtadar of Principal Subordinate Court, Tindivanam. According to him, in the occasion, if the decree passed by the court below is set aside, he undertook to pay the amount, if any left as balance, in the subsequent proceedings.

5. Now on going through the submission made by the learned counsel appearing for the petitioner and considering the fact that the entire decree amount has already been deposited in the court, it is needless to say that nothing survives for further adjudication in this Civil Revision Petition. Moreover, since the learned counsel appearing for the petitioner himself made an undertaking for payment of balance amount, if any left out, towards the decree, I am of the considered view that it is not necessary to keep this Civil Revision Petition further more.

6. In view of the above discussions, this Civil Revision Petition is closed. No cost. Consequently, connected Miscellaneous Petition is closed.

15.11.2019

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R.PONGIAPPAN, J.,

vrn

To

The Principal Subordinate Court, Tindivanam.



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