

IN THE HIGH Court OF JUDICATURE AT MADRAS

DATED: 20.08.2019

CORAM:
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.No.2415 of 2019
and
C.M.P.No.15805 of 2019

1.M.Sivakumar
2.S.Nithiyapriya

.. Petitioners

Vs.

1.P.Satheeshkumar
2.S.Sridevi

... Respondents

PRAYER : Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order, dated 24.04.2019 passed by the learned II Additional Subordinate Judge at Erode in I.A.No.1/2019 inn I.P.No.26/2014 by allowing this Civil Revision Petition.

For Petitioner : Mr.S.Rajendiran
For Respondents : Mr.P.Parthi Kannan

ORDER

The present Civil Revision Petition is directed against the dismissal of the petition to file additional counter statement at the stage of trial.

2.The first petitioner herein is the second respondent in the insolvency proceedings and contended that the property purchased by him from the debtor is under attack. In order to prove that his purchase is bonafide, he wants to file an additional counter statement.

3.The Trial Court after considering the additional counter statement has come to the conclusion that the statement made in the additional counter statement is nothing to do with the bonafide purchase of the petitioner and the additional counter statement is filed at the belated stage. Therefore, the Trial Court rejected the petition.

4.The learned counsel for the petitioner would contend that he has every right to prove the bonafide purchase of the property by him using his hard earned money. Therefore, opportunity should be given to him to file an additional counter statement.

5.It is always open to the petitioner to prove his bonafide before the Court in the manner known to law. It does not mean that he can plead additional facts irrelevant to the issue at any time. Insofar as this additional counter statement is concerned, he affirms that the property purchased by him was not leased out to some one. This fact is not going to affect or change the purchase made by him much less the bonafide nature of the same. The Trial Court has rightly disallowed the petition. I do not find any infirmity in the order.

6.Accordingly, this Civil Revision Petition is dismissed. It is always open to the petitioner to mark the subsequent rental agreement or lease out agreement whatsoever through witnesses to prove the present status of the property. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

pnn

To,

The II Additional Subordinate Judge,
Erode

+lcc to Mr.S.Rajendiran , Advocate SR.No. 70884

+lcc to Mr.S.Kaithaimalai kumaran , Advocate SR.No. 71296

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A.SK(07/01/2020)

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