

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2019

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(NPD)Nos.2096 & 2098 OF 2019
and
C.M.P.No.13572 OF 2019

1.Muthusamy

2.Angusamy

... Petitioners in both C.R.P's

Vs.

1.A.Ponnusamy

2.R.Nataraj

3.Palanigounder @ Mottiagounder

4.Palanigounder

5.Govindasamy Gounder

6.A.Rangasamy

... Respondents in both C.R.P's

सत्यमेव जयते

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of Constitution of India praying to direct the II Additional Subordinate Judge, Coimbatore to number the Petitions in REA.SR.Nos.16218 & 17409 of 2018 on his file and decide the same on merits.

For Petitioners
in both the petitions : Mr.R.Ezhilarasan

COMMON ORDER

These Civil Revision Petitions are filed by the petitioners seeking to direct the II Additional Subordinate Judge, Coimbatore to number the Petitions in REA.SR.Nos.16218 & 17409 of 2018 on his file.

2. The subsequent purchaser of the property filed a petition under Section 47 C.P.C. challenging the enforceability of the decree. The said Execution Application came to be returned on the question of maintainability.

3. Aggrieved over the same, the petitioners are before this Court.

4. The suit was filed in the year 1999 and the same was decreed on 11.03.2002. Even though the charge was created, property was not attached.

5. It is submitted by the learned counsel for the petitioners that they have purchased the property before any attachment passed by the Courts. The petitioners, who are the purchasers of the property have questioned the validity and enforceability of the decree in the Execution Petition filed by the first and second respondents for bringing the property for sale. The trial Court has returned the execution application even without numbering the same. It is well settled that under Section 47 CPC, subsequent purchaser is also legal representative and thereby deemed to be the party of the proceedings.

6. In such circumstances, the Execution Court shall number the execution application and thereafter decide the matter on merits. It cannot be returned at the threshold without affording an opportunity to the petitioners.

7. Therefore, a direction is given to the II Additional Sub Court, Coimbatore to number REA.SR.Nos.16218 & 17409 of 2018 and to dispose of the same on merits. The Civil Revision Petitions are ordered accordingly. No costs. Consequently, connected civil miscellaneous petition is closed.

8. Registry is directed to return the original petition enabling the petitioners to approach the execution Court.

01.07.2019

bkn

Note: Issue order copy on 02.07.2019

सत्यमेव जयते

To

WEB COPY

The II Additional Subordinate Judge, Coimbatore

M.GOVINDARAJ, J.

bkn



C.R.P.(NPD)Nos.2096 & 2098 OF 2019
and
C.M.P.No.13572 OF 2019

WEB COPY

01.07.2019