

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P(PD). No.5029 of 2014

M.Amudha

..Petitioner

Vs

1.P.Dayanidhi

2.P.Gomathi

..Respondents

Prayer :- Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order dated 13.03.2006 passed in I.A.No.1433 of 2005 in O.S.No.1171 of 2004 on the file of the learned Principal District Munsif, Kancheepuram.

For Petitioner : Mr.R.Thiagarajan

For Respondents : No Appearance

ORDER

The present Civil Revision Petition has been filed against fair and decreetal order dated 13.03.2006 in I.A.No.1433 of 2005 in O.S.No.1171 of 2004 on the file of the learned Principal District Munsif, Kancheepuram.

2. It is noticed that originally the first respondent/plaintiff had filed a suit against one Monokaran in O.S.No.1171 of 2004 before Principal District Munsif at Kancheepuram for specific performance to execute sale deed. However, the said Monokaran who claimed to be the Power of Attorney holder of owner V.Shanmugam of the suit schedule property had sold the land to the petitioner and second respondent herein. Therefore they were later impleaded as second and third defendant in the suit. Since no written statement was filed they were set exparte.

3. Under these circumstances, I.A.No.1433 of 2005 was filed by the petitioner herein to set aside the ex-parte decree dated 25.10.2005.

4. The said Interlocutory Application was allowed subject to payment of costs of Rs.300/- on 17.02.2006. The petitioner was required to pay the amount on or before 03.03.2006 and therefore the case adjourned to 06.03.2006. However, on 06.03.2006 the cost was not paid and therefore the case was adjourned to 13.03.2006. However, the petitioner still failed to pay the costs despite being extended till 13.03.2006. Therefore the Interlocutory Application was dismissed on 25.10.2005.

5. The third defendant who is the second respondent herein has also filed another I.A.No.856 of 2011 in O.S.No.1171 of 2004 on the file of

the learned Principal District Munsif, Kanchipuram to set aside the exparte order dated 25.10.2005 with a delay of 1838 days and the said Interlocutory Application is said to be pending before the said Court.

6. It is stated that the Court has also executed a sale deed in favour of the first respondent/plaintiff herein. It is this noticed that there are two sale deeds executed in respect of the same property. One by Manokaran infavour of the petitioner and the second respondent as a registered power of attorney of the owner V.Shanmugam and the other by the Court in favour of the 1st respondent-plaintiff.

5. Relief in the present Civil Revision Petition at this distant point of time when the suit filed by the first respondent/plaintiff has been decreed cannot be granted. However, the rights of the petitioner in the execution proceeding that may be initiated by the first respondent/plaintiff is preserved. In view of the same, the Civil Revision Petition is therefore dismissed with the above observations. No costs.

05.02.2019

Index : Yes/No

Internet : Yes/No

dh

To

The learned Principal District Munsif,
Kancheepuram.

C.SARAVANAN.J.,

dh



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