



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.R.P. (PD) (MD) No.302 of 2019

and

C.M.P. (MD) Nos.1469 and 1470 of 2019

Muralidharan

...Petitioner

-VS-

1.V.Sivasankari
2.P.Solaiammal
3.Kulandaivelu
4.Gnanasundari
5.K.Karthikeyan
6.M.Umamaheswari
7.K.Gowri

K.Senthilkumar (died)

8.A.Karthikeyan
9.D.Nagarajan
10.K.Manoharan
11.Nallusamy
12.A.Vasantha
13.K.Thangammal
14.K.Krishnaveni
15.Kiruthika

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the docket order dated 24.01.2019 passed in E.A.No.135 of 2014 in E.P.No.5 of 2018 in O.S.No.20 of 2008 on the file of the I Additional District Court, Thanjavur.

For Petitioner : Mr.M.P.Senthil

ORDER

This Civil Revision Petition has been preferred by the petitioner against the docket order dated 24.01.2019 made in E.A.No.135 of 2014 in E.P.No.5 of 2018 in O.S.No.20 of 2008 before the I Additional District Court, Thanjavur.

2. The learned counsel for the petitioner submits that the petitioner on 11.09.2009, entered into an sale agreement with third respondent herein for purchasing a property in Survey No.57/2, Thirukkattupalli, Thiruvaiyaru, Thanjavur District. He has paid a sum of Rs.10,000/- as advance. In the said sale agreement, it has been stated that after the disposal of the suit in O.S.No.20 of 2008 on the file of the Principal Sub Court, Thanjavur, filed by the

daughter of the third respondent, the sale deed will be executed in favour of the petitioner herein.

3. The said suit was decreed on 12.04.2012 as per the compromise entered between the parties therein. As per the compromise decree, the property, which was purchased by the petitioner herein from the third respondent, was allotted to the daughter of the third respondent / plaintiff in O.S.No.20 of 2008. Hence, the petitioner file a suit in O.S.No.15 of 2012 before the I Additional District (PCR) Court, Thanjavur seeking specific performance of the sale agreement dated 11.09.2009 and also he obtained an interim injunction. After filing of this suit, he deposited the entire sale consideration before the Court.

4. While that being so, E.P.No.23 of 2013 came to be filed to execute the decree passed in O.S.No.15 of 2012 and attachment order has been passed. Hence, the petitioner filed E.A.No.135 of 2014 in E.P.No.5 of 2018 to set aside the attachment order passed on the petition mentioned property. In the said E.A. filed by the petitioner, notice was issued. In the said notice, it is addressed that "take notice that the petitioner requires the respondent to produce the documents for inspection of the petitioner herein (1) Will executed by Backia Nadar (2) registered sale deed in favour of Bakia Nadar (3) registered sale deed in favour of Bakia Nadar", to prove that the petitioner has filed a suit for specific performance based on the Will alone.

5. Thereafter notes order, dated 21.01.2019 came to be passed stating that "objection received. No such document is in the custody of D3. Hence, recorded and closed." At this stage, the petitioner has preferred this civil revision petition against the said notes order.

6. The notes itself is preferred by the petitioner for producing certain documents. There are fifteen defendants in the suit in O.S.No.20 of 2008 and only one person has made an endorsement as he is not in possession of the documents required by the petitioner and there are some other persons, who have to response to the notice. He himself is not clear about the existence of the documents. Hence, in the absence of any details regarding custody of specific documents, there is no reason for the petitioner to prefer the present petition too early.

7. In view of the above, this civil revision petition is dismissed as premature. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //



To:

The I Additional District Judge,
Thanjavur

+1 CC to M/s.M.P.SENTHIL, Advocate in SR-47075

C.R.P. (PD) (MD) No.302 of 2019

ta

PK/02.05.2019 : 3P/3C