



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2020

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P. (MD) .NPD.No.2415 of 2017

WEB COPY

M/s.Nellai Uma Chit Fund (Pvt) Limited,
rep. by its Director Mrs.Gothainayagi... Petitioner/Plaintiff
Vs.

1.Maruthiah Pandian
2.Veludoss
3.Gomathy

... 1st Respondent/3rd party
...2nd and 3rd respondents/
judgment debtors

PRAYER: Civil Revision Case is filed under Section 115 of the Civil Procedure Code to call for the records and to set aside the fair and decretal order passed in C.M.A.No.65 of 2006, dated 26.03.2010 on the file of the 1st Additional District Judge, Tirunelveli, confirming the fair and decretal order passed in E.A.No.1191 of 2005 in E.P.No.105 of 2000 in O.S.No.292 of 1998 on the file of the Principal Sub Court, Tirunelveli, dated 03.07.2006.

For Petitioner : Mr.M.S.Jawaharlal

For Respondent-1: Mr.S.P.Maharajan

O R D E R

The petitioner is the decree holder in O.S.No.292 of 1998. She got an decree against the respondents 2 and 3 before the learned Principal Sessions Judge, Tirunelveli. Thereafter, she filed a petition to execute the said decree in E.P.No.105 of 2000. During the pendency of the E.P, the first respondent filed a claim petition in E.A.No.1191 of 2005. The said E.A was allowed and the E.P was dismissed. Challenging the said order passed in E.A.No.1191 of 2005, the decree holder has filed a civil miscellaneous appeal before the I Additional District Judge, Tirunelveli, and that was dismissed, by confirming the fair and decretal order passed in E.A.No.1191 of 2005 in E.P.No.105 of 2000 in O.S.No.292 of 1998, on the file of the learned Subordinate Judge, Tirunelveli. Against that, the decree holder has filed the present civil revision petition before this Court,

2.Though the decree holder, with the permission of the Court, participated in the court auction, and she was the successful bidder and subsequently, she has filed an execution petition for possession, the first respondent/3rd party filed a claim application thereafter and he has succeeded during the court auction, he has also deposited the amount fixed by the court in the upset price in the Execution Court. Hence, now,, the decree holder does not want to proceed the E.P. Therefore, the learned counsel appearing for the petitioner seeks permission of this Court to withdraw this civil revision petition. He has also made an endorsement to that effect.



3. Since the first respondent has succeeded in the claim petition and he has already deposited the entire amount in the Executing Court in E.P.No.105 of 2000 and since the decree holder/petitioner has also made an endorsement to that effect, recording the same, this civil revision petition is dismissed as not pressed. The petitioner is permitted to withdraw the amount lying in the court deposit in E.P.No.105 of 2000 with accrued interest if any. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vs

To

1.The 1st Additional District Judge,
Tirunvelveli.

2.The Principal Sub Judge,
Tirunelveli.

+1 CC to M/s.M.S.JAEAHARLAL, Advocate (SR-11466[F] dated 13/03/2020
+1 CC to M/s.S.P.MAHARAJAN, Advocate (SR-11376[F]

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sma/20/05/2020/2p/5c