

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2021

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P.NPD.No.216 of 2021
and
C.M.P.No.2033 of 2021

Balaraman

... Petitioner / 3rd party

Vs

1.Rajavel

... 1st Respondent/Petitioner/Decree Holder

2.Veerapathiran

... 2nd respondent / Respondent / Judgment Debtor

Civil Revision Petition filed under Section 115 of CPC., to set aside the order dated 16.06.2020 in E.A.No.20 of 2019 in E.P.No.26 of 2013 in Ar.O.P.No.1 of 2010 on the file of the Principal District Court, Villupuram.

For Petitioner

..

Mr.V.Subramani,
for K.Shanmugakhani

For Respondents

..

Mr.E.Omprakash,
Senior Counsel
For Mr.K.Moorthy

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ORDER

The petitioner in E.A.No.20 of 2019 which had been filed in E.P.No.26 of 2013 in Ar.O.P.No.1 of 2010 is the revision petitioner herein.

2.The said E.A.No.20 of 2019 came up for consideration before the learned Principal District Judge, Villupuram on 16.06.2020 and the learned Principal District Judge, had dismissed the said application leading to the filing of the present Civil Revision Petition.

3.The contention of the present petitioner was that there was a charge over the property which was sought to be proceed with by way of E.P.No.26 of 2013. It had however been very clearly held that the petitioner had no right or interest over the property. The learned Judge had found that the plaintiff has based his claim on Ex.P1 and Ex.P2 which are both unregistered Agreements of Sale. It had also been found that the stamp paper in Ex.P1 was purchased on 17.09.2008, whereas the actual agreement was executed on 01.09.2010. Similarly, the stamp papers for Ex.P2 had been purchased on 16.03.2007 whereas the Agreement of Sale was executed on 19.09.2011. The learned Judge therefore, in paragraph 8 of the order, cast a very serious doubt on the genuinty of the two agreements. The learned Judge also found that the

witness to the Agreements of Sale were not examined and the two agreements were not proved in manner known to law.

4.Mr.V.Subramani, learned counsel for the petitioner insisted that this court should examine paragraph 7 of the order now under revision wherein it had been stated that Ex.P5 is not related to the Ex.P4 property. They are issues which the decree holder will have to establish and will have to cross over at the time of determining the Execution Petition.

5.So far as the present Revision Petitioner is concerned the only document which he has produced are Exs.P1 and P2 which as aforesaid are both unregistered Agreement of Sale.

6.Section 54 of the Transfer of Property Act, which deals with 'Sale' also deals with 'Contract of Sale'. It had been very specifically provided in the said provision that a Contract of Sale by itself does not create any interest in or charge on such property.

7.The revision petitioner herein, if he wants to claim any relief, can claim only when he files necessary proceedings to enforce the said agreements of sale. But he cannot seek any relief in the further proceedings in E.P.No.26 of 2013. A perusal of the records also show that E.P.No.26 of 2013 as is evident, has been pending for the past nearly 8 years and has been filed pursuant to decree in Ar.O.P.No.1 of 2010

which had been instituted more than a decade back.

8.I am not impressed with the arguments advanced. The revision petitioner cannot claim to have any charge over the property as claimed by him.

9.The Revision Petition is dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

10.I am informed that the attachment was the subject matter of an earlier Revision Petition in C.R.P.No.1895 of 2015 which had been disposed of to the adverse interest of the Judgment Debtor by this Court on 18.12.2017 and it is evident that the present petitioner came into the picture only after such an order passed by this Court.

28.06.2021

Internet:Yes/No

Index:Yes/No

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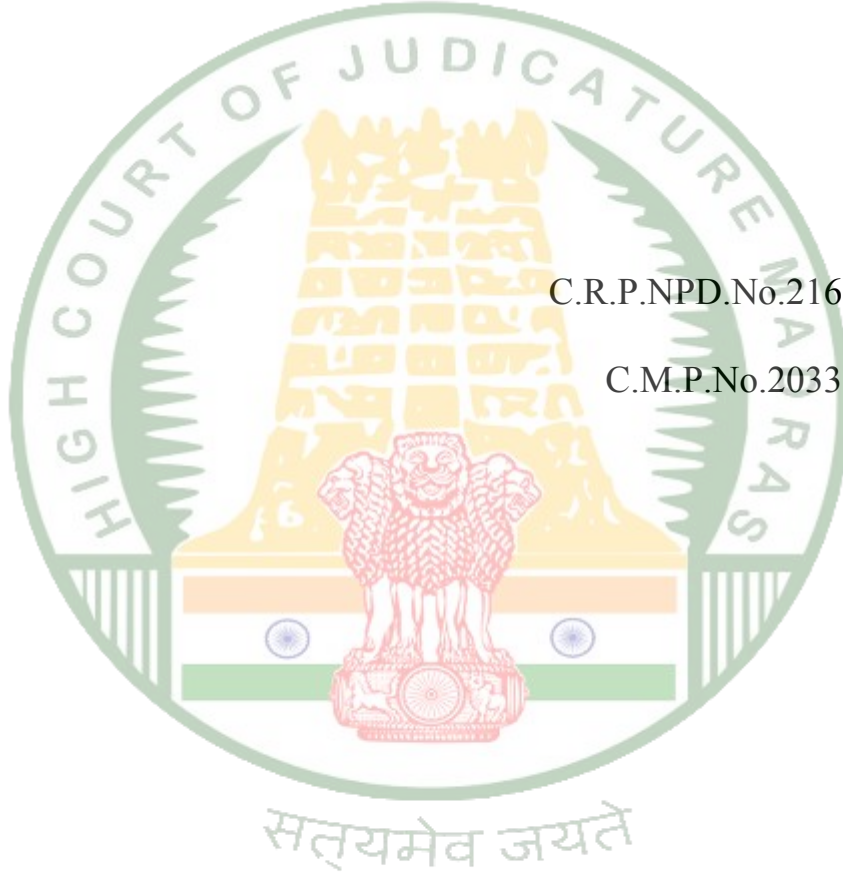
To

The Principal District Court, Villupuram.

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C.V.KARTHIKEYAN,J.

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