



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2021

CORAM :

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P.No.2244 of 2021

and

C.M.P.No.17053 of 2021

N.Sankaralingam

...Petitioner

Vs

1.V.Raghuraman
2.Kaliyanna Gounder
3.Vangalayee
4.Palanisamy
5.N.Sureshbabu

...Respondents

PRAYER : Civil Revision Petition filed under Section 115 of the Civil Procedure Code praying to call for the records of the lower Court and set aside the fair order and decretal order dated 31.08.2021 passed in R.E.A.No.30 of 2021 in R.E.P.No.19 of 2000 in O.S.No.366 of 1997 passed by the Sub-ordinate Judge at Attur and allow this Civil Revision.

For Petitioner : Mr.Vivekanandhan.

For Respondents : Mr.V.Raghuraman,
Party-in-person.

O R D E R

This Petition is filed challenging the order passed in R.E.A.No.30 of 2021 in R.E.P.No.19 of 2000 in O.S.No.366 of 1997 passed by the Learned Subordinate Judge, Attur.

2.The Learned Counsel for the Petitioner submitted that there was an exparte decree passed against the Petitioner in O.S.No.366 of 1997. O.S.No.366 of 1997 was filed by the First Respondent, V.Raghuraman against the Petitioner and other Respondents seeking the relief of specific performance of the contract on the basis of the sale agreement dated 15.10.1993.

3.It is specifically alleged in the plaint that the Defendants 1 to 3 in the Suit have sold the Suit properties to the Defendants 4 and 5 on 16.11.1994. However, the First Respondent / Plaintiff has not sought for the relief for



declaration or cancellation of the sale deed in favour of the Defendants 4 and 5 in the Suit. Though the Suit was decreed exparte, there is no specific decree passed against the Defendants 4 and 5. The decree was passed only against the Defendants 1 to 3 who executed the sale deed in favour of the First Respondent / Plaintiff. He further submitted that the Petitioner filed O.S.No.83 of 2021 with one Sureshbabu against the Respondents 1 to 4 and four others seeking the relief of declaring the title over the property and for other reliefs.

4. When the Suit in O.S.No.83 of 2021 is pending, the proceedings in R.E.P.No.19 of 2000 cannot go on. Therefore, the Petitioner filed R.E.A.No.30 of 2021 under Order 21 Rule 29 of the Civil Procedure Code for staying the further proceedings in R.E.P.No.19 of 2000 till the disposal of the Suit in O.S.No.83 of 2021. However, without considering the Petitioner's case, the Learned Subordinate Judge, Attur dismissed the stay Petition. Against the said order of dismissal, this Civil Revision Petition is filed.

5. In response, the First Respondent, V.Raghuraman who appeared as party in person submitted that the sale agreement, in favour of him, was a registered sale agreement. After knowing well that sale agreement in his favour, was a registered sale agreement, the Defendants 4 and 5 in the Suit viz., the Petitioner herein and one Sureshbabu had deliberately purchased the Suit properties from the owners, Defendants 1 to 3 in the Suit. They have also not contested the Suit. The Suit was decreed exparte on 06.04.1999. The Petitioner is bound by decree for the reason that no steps had been taken to set aside the exparte decree or to file an Appeal against the exparte decree. Already the sale deed was executed in favour of the First Respondent and the R.E.P.No.19 of 2000 is pending for delivery of the property. He is fighting this case from 1994 and therefore, he prayed for confirming the order of the Learned Subordinate Judge, Attur and for dismissing the Civil Revision Petition.

6. Considered the rival submissions of the Learned Counsel for the Petitioner and the First Respondent / Party-in-person and perused the records.

7. There is no dispute with regard to the fact that Suit in O.S.No.366 of 1997 was filed by the First Respondent against the Petitioner and others for the relief of specific performance of contract on the basis of registered sale agreement dated 15.10.1993. The Petitioner and other Defendants in the Suit entered appearance. However, for the reasons best known to them, they have not contested the Suit and therefore, exparte decree came to be passed on 06.04.1999.



8.It appears that no steps had been taken for setting aside the exparte decree or to file an Appeal against the exparte Judgment and decree. Exparte decree passed in O.S.No.366 of 1997 on 06.04.1999 becomes final. It is no doubt that the Petitioner and other Defendants in the Suit are bound by the decree. The contention of the Learned Counsel for the Petitioner that there was no decree passed against him and therefore, decree cannot be executed against him cannot be accepted for the reason that the Petitioner and one Sureshbabu stepped into the shoes of the owners of the property viz., Defendants 1 to 3 viz., Kaliyanna Gounder, Vangalayee and Palanisamy. Therefore, the decree passed against the aforesaid persons is binding on the Petitioner viz., Sankaralingam and one Sureshbabu. Though the Suit was decreed exparte on 06.04.1999, the Suit in O.S.No.83 of 2021 is filed only on 21.01.2021 and obviously, to scuttle the process of execution of decree. Therefore, this Court finds no reason to stay the further proceedings in R.E.P.No.19 of 2000 and Petition filed for staying, in R.E.A.No.30 of 2021 was rightly dismissed by the Learned Subordinate Judge, Attur. This Court finds no reason to interfere with the order of the Learned Subordinate Judge, Attur and thus, the order of the Learned Subordinate Judge, Attur is confirmed.

9.Resultantly, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ay/jai
To

The Subordinate Judge,
Attur.

+2 Ccs to Mr.V.Raghuraman, Advocate sr 53954
+1 CC to Mr.D. Gopinath, Advocate sr 53815.

C.R.P.No.2244 of 2021
and
C.M.P.No.17053 of 2021

NK(CO)
SP(10/11/2021)