

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2021

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.R.P(PD).No.2315 of 2020

P.Naveen Chakravarthy

...Petitioner

Vs

1.MMM.Thiyagaraj

2.The Sub Registrar,
Ponneri Sub-Registrar Office,
Taluk Office Road,
Ponneri.

...Respondents

Revision Petition filed under Article 227 of the Constitution of India
to set aside the order dated 06.02.2020 passed by the learned District
Munsif, Ponneri in O.S.No.223 of 2020.

For Petitioner : Mr.Manoj Sreevalsan

For Respondents : Mr.S.P.Sudalaiyandi [For R1]
Mr.T.M.Pappaiah [For R2]
Special Government Pleader

ORDER

The plaintiff in O.S.Sr.No.223/2020, who had instituted a suit before the District Munsif Court at Ponneri and which suit had been returned by the District Munsif is the revision petitioner herein questioning the return of the said plaint.

2.The plaintiff P.Naveen Chakravarthy is the grandson of Mrs.P.Sathakeerthy. She had purchased a property under a registered sale deed in the year 1989. She had also obtained patta and kist was also issued in her favour. The said Mrs.P.Sathakeerthy executed a registered settlement deed in favour of the plaintiff on 13.05.2013 which was registered as Document No.6447/2017 at the Sub Registrar's Office at Ponneri. The plaintiff therefore, as a bounty obtained possession and title to the said property. He could have held on to the said property had he been a little more responsible. On the other hand, he obtained loan from Andhra Bank and had mortgaged the suit property for due repayment of the loan. Naturally he did not repaid the loan. The Bank authorities therefore

invoked the provisions of the SARFAESI Act through Debt Recovery Tribunal and brought the property for sale. The petitioner herein is not objecting to the fact that the property was brought to sale and he concedes that fact. The property, through Court auction was sold to Mr.MMM.Thiyagaraj, who was shown as the first defendant in the unnumbered suit. The second defendant was the Sub Registrar at Ponneri. It is to be pointed out that at the very outset, if a document is lawfully produced before the Sub Registrar, there is an obligation to register the said document. The sale deed was brought for registration and it is seen that there was an issue about the valuation of the property and the second defendant, namely, the Sub Registrar, Ponneri had referred to the matter to the Deputy Revenue Officer [Stamps] for determining the correct valuation of the sale certificate under Section 47A of the Stamps Act r/w. Rule 7(4) of the Tamil Nadu Prevention of Undervaluation of Instrument Rules, 1968.

3.The District Revenue Officer [Stamps] conducted an enquiry and directed the first defendant to pay the deficit Stamp Fee for the sale certificate. The said deficit stamp fee was also paid. As a result, on

03.09.2019, certificate under Section 47A of the Stamps Act was issued. Thereafter, the sale deed was registered and the first defendant had been put in possession.

4.The plaintiff, thereafter commenced investigative operations. He filed an application under the Right to Information Act with respect to the property and thereafter raising various grounds and claiming that the property had been undervalued and that the property was actually a non-agricultural property but had been shown as agricultural property and that the Government had been put to loss in view of the entire transactions, had instituted a suit seeking a declaration that the registered sale certificate issued in favour of the first defendant dated 16.08.2019 registered as Document No.5696 of 2019 in the Office of the Sub Registrar, Ponneri a not legally valid and for a permanent injunction restraining the first defendant from interfering with the peaceful possession of the plaintiff.

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5.Let me first address the issue of possession. The plaintiff having mortgaged the property and having consented for sale to be brought about,

cannot thereafter turn around and claim protection from possession. The said prayer is not only mischievous but also misconceived.

6.With respect to the first prayer sought, namely, to set aside the registered sale deed, the learned District Munsif pointed out Section 34 of the SARFAESI Act and had observed that the jurisdiction of the Civil Court is expressly barred.

7.Reliance can also be made to the judgment of the Full Bench of Madurai Bench reported in **2019 (4) CTC 839 [Dr.R.Thiagarajan vs. The Inspector General of Registration, Santhome, Chennai and others]**. In paragraph Nos.23, 24 and 25 of the judgment, it had been held as follows:

“23.If proper stamp duty is not paid for the said Sale Certificate and registered as required under law, then it is only a still born child and does not confer any right to the petitioner whatsoever. When the Sale Certificate is not properly stamped and registered, it is a void document and no right would vest upon the petitioner based on the same. As per Section 47-A of the Stamp Act, if the Registering Authority has reason to

believe that the market value of the property, which is the subject matter of conveyance, has not been truly set-forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the market value of the said property and the proper duty payable thereon.

24.As already stated, the Sale Certificate issued by the Authorized Officer of the bank requires registration as well as stamp duty under Article 18-C read with Article 23 of Schedule 1 of the Stamp Act.

25.In the case of the property being under-valued, then, the Registering Authority is entitled to refer the matter to the Collector under Section 47-A of the Stamp Act. Therefore, in respect of the Sale Certificate issued by the Authorized Officer of the bank, Section 47-A of the Stamp Act is applicable.”

8.In the instant case also, the second defendant had referred the matter before the District Revenue Officer [Stamps] for determining the correct valuation of the sales certificate under Section 47A of the Stamps Act r/w. Rule 7(4) of the Tamil Nadu Prevention of Undervaluation of Instrument Rules, 1968. Enquiry had been conducted. Deficit stamp papers had been

collected. The document had been thereafter validly registered. Hence, nothing further survives.

9.The jurisdiction of the Civil Court is barred as correctly opined by the learned District Munsif and I must really commend the District Munsif for being vigilant and not being misled by clever drafting of the plaint and rejecting the plaint even without numbering it. I do not find any grounds to interfere with the order.

6.Accordingly, the Civil Revision Petition is dismissed. No order as to costs.

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Index: Yes/No

Internet: Yes/No

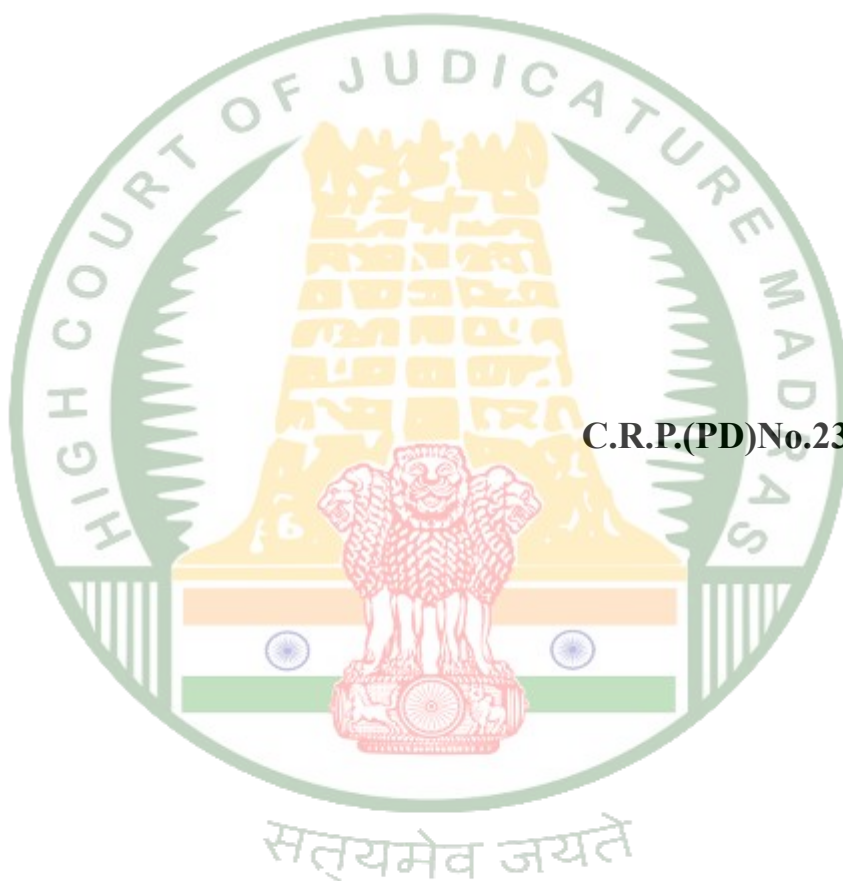
To

The District Munsif,
Ponneri.

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C.V.KARTHIKEYAN, J,

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