



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2021

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (MD)No.160 of 2021

and C.M.P. (MD)No.977 of 2021

S.N.Prabhakaran

... Petitioner/Appellant/ Petitioner

Vs.

1.P.Kesavan

2.N.Murugan

3.N.S.Narayanasamy

4.M.Vasuki

... Respondents/Respondents/Respondents

Prayer : Civil Revision Petition filed under Section 115 of CPC., to call for the records relating to the Judgment and Decree dated 15.12.2020 passed in C.M.A.No.4 of 2020 by the Additional District and Sessions Judge (Fast Track Court), Theni, confirming the fair order and decreetal order dated 02.12.2019 passed in E.A.No.178 of 2019 in E.A.No.64 of 2018 in E.A.No.228 of 2012 in E.P.No.51 of 2009 by the Subordinate Judge, Uthamapalayam and set aside the same.

For Petitioner

: Mr.R.Rajamohan

For Respondents

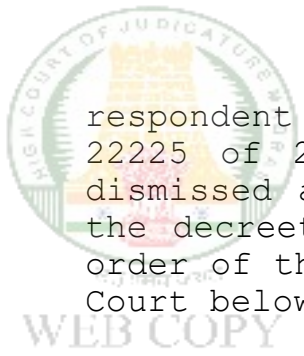
: Mr.Vanjinathan

ORDER

This civil revision petition has been filed to set aside the Judgment and Decree dated 15.12.2020 passed in C.M.A.No.4 of 2020 by the Additional District and Sessions Judge (Fast Track Court), Theni, confirming the fair order and decreetal order dated 02.12.2019 passed in E.A.No.178 of 2019 in E.A.No.64 of 2018 in E.A.No.228 of 2012 in E.P.No.51 of 2009 by the Subordinate Judge, Uthamapalayam.

2.The brief facts of the present case are follows:-

2.1. The first respondent herein had filed a suit in O.S.No.152 of 1996 before the Sub Court, Periyakulam for specific performance. In the suit one Murugan, who is the second respondent herein, being the owner of the property and agreement holder was arrayed as first defendant and the second defendant (third respondent herein), who is said to have purchased the suit property pending the subsistence of agreement. On consideration of oral and documentary evidence, the learned Judge decreed the suit on 27.09.2002. Thereafter, the third respondent herein, who claimed to have purchased in the interregnum period of agreement, had filed an appeal in A.S.No.23 of 2006 before the Additional District Court, Periyakulam the learned Additional District Judge after hearing both sides, dismissed the appeal on 18.10.2011. Thereafter, second appeal filed with a delay of 1736 days and by a detailed order dated 14.10.2017, this Court dismissed the delay condonation petition. Aggrieved over the same, the third



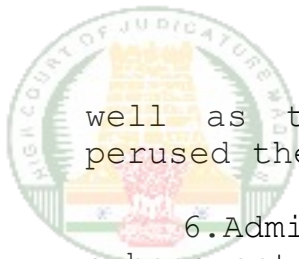
respondent herein filed Special Leave petitions in SLP.Nos.22224 to 22225 of 2018 before the Hon'ble Supreme Court and the same was dismissed and thereby confirmed the order passed by this Court and the decretal order passed by the Court below become final and the order of the Hon'ble Supreme Court had merged with the decree of the Court below in O.S.No.152 of 1996.

2.2. Thereafter, the first respondent herein filed an execution petition. In the said petition a claim petition was filed by one Vasuki, who is the landlord of the petitioner herein, by claiming that she had purchased the suit property pending appeal from the third respondent herein, who was defeated upto the Hon'ble Supreme Court. The said petition was dismissed and aggrieved over the same, the said Vasuki filed a revision petition in C.R.P.(MD) No.2668 of 2016 before this Court and the same was dismissed and thereby confirmed the order passed by the executing Court. The said Vasuki filed a suit in O.S.No.12 of 2020 for declaration. The petitioner herein is the tenant of the said Vasuki and he filed an obstruction petition in E.A.No. 64 of 2017 and the same was dismissed for non-appearance of the petitioner herein, against which, the petitioner filed an appeal in C.M.A.No.4 of 2020 and the same was also dismissed. Aggrieved over the same, the present civil revision petition filed.

3.The learned counsel appearing for the petitioner would submit that the petitioner is a tenant in respect of the suit property inducted by the fourth respondent and he was not aware of the earlier litigations between the respondents and the pendency of the execution petition. On coming to know the same, he filed E.A.64 of 2017 to obstruct the delivery before the Sub Court, Uthamapalayam. Due to viral fever, the petitioner was not able to appear before the Court and therefore, the petition of the petitioner came to be dismissed for default. For restoring the said petition, the petitioner filed E.A.No.178 of 2019 and the same was dismissed, against which, C.M.A.No.4 of 2020 before the Additional District and Sessions Court, Theni and the same was also dismissed. Hence, the present petition.

4.The learned counsel appearing for the respondents would submit that the petitioner herein is a tenant under a subsequent purchaser, who had lost upto this Court, who claimed to have purchased the property from a person, who had lost upto the Hon'ble Supreme Court. The petitioner herein had abused the process of Court by using the provisions of Order 21 CPC., and the above said application is a fourth round of litigation. He would further submit that the suit is of the year 1996 and a successful litigant was prevented from executing the decree. Hence, he would pray for dismissal of this petition.

<https://hcservices.hcscourt.gov.in/hcservices/> learned counsel appearing for the petitioner as



well as the learned counsel appearing for the respondents and perused the materials available on record.

6. Admittedly, the petitioner herein is the tenant under a subsequent purchaser, who had lost upto this Court, who claimed to have purchased the property from a person, who had lost upto the Hon'ble Supreme Court. The learned Judge finding that subsequent purchaser is not entitled to maintain the application under Order 21 Rule 97 C.P.C., without entering into the said factor and held that the appeal is a sheer abuse of process of law and dismissed the same where I do not find any infirmity and interference of this Court is not warranted.

7. At this juncture, the learned counsel appearing for the respondents brought to the notice of this Court that this Court by an order dated 21.10.2019 in CRP.(MD)No.1876 of 2019 has given a direction to dispose of the petition in E.A.No.228 of 2012 within a period of two months and till date the petition is pending.

8. In view of the same, the learned Judge is directed to dispose of the petition E.A.No.228 of 2012, within a period of four weeks from the date of receipt of a copy this order. Accordingly, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Additional District and Sessions Court (Fast Track Court),
Theni.
2. The Subordinate Court,
Uthamapalayam.

Copy to

The Registrar Judicial,
Madurai Bench of Madras High Court,

<https://hcservices.ecourts.gov.in/hcservices/>



+1 CC to M/s.R.RAJA MOHAN, Advocate (SR-4068[F] dated 09/02/2021)

+1 CC to M/s.G.VANJI NATHAN, Advocate (SR-4380[F] dated 10/02/2021)

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09.02.2021

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