



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.03.2021

CORAM

THE HON'BLE MRS.JUSTICE J.NISHA BANU

C.R.P(MD)No.300 of 2021

and

C.M.P(MD).No.1699 of 2021

Murugan ...Revision Petitioner/Petitioner/Appellant
Vs.
Paruthi Raj ...Respondent/Respondent/Respondent

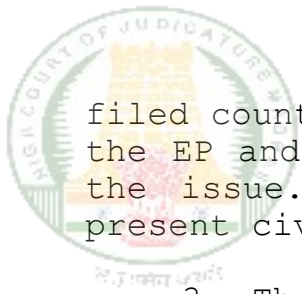
Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to direct the learned Principal District Judge, Tirunelveli to dispose the suit petition in I.A.No.02 of 2019 in A.S.No.112 of 2019 on the file of the Principal District Court, Tirunelveli within a time frame fixed by this Court.

For Petitioner :Mr.Niranjana S.Kumar
For Respondent :Mr.S.S.Thesingu

O R D E R

This Civil Revision Petition has been filed by the petitioner to dispose the suit petition in I.A.No.02 of 2019 in A.S.No.112 of 2019 on the file of the Principal District Court, Tirunelveli within a time frame fixed by this Court.

2. The respondent herein filed a suit in O.S.No.199 of 2012 on the file of Additional Subordinate Court, Tenkasi for the relief of specific performance and the said suit was partly decreed by granting the alternative remedy and the revision petitioner was directed to pay a sum of Rs.2,00,000/- with interest to the respondent. Against which, the revision petitioner filed the appeal suit in A.S.No.112 of 2019 along with an interlocutory application under Order 41 Rule 5 of C.P.C. in I.A.No.02 of 2019. Meanwhile, the respondent herein filed a Execution Petition in E.P.No.67 of 2017 praying to realize the amount of Rs.2,00,000/- as per the decree in O.S.No.199 of 2012 and the same was allowed by attaching and bringing the very same property for sale. The property was sold to Mr.Ramalingam, who is none other than the father of the respondent and he was filed E.A.No.1 of 2019 in E.P.No.67 of 2017 in O.S.No.199 of 2012, praying for delivery of the property. The revision petitioner has filed a stay application in I.A.No.2 of 2019 in A.S.No.112 of 2019 to stay all further proceedings in execution proceedings. The said application is pending. The respondent has not



filed counter and getting adjournments to protract the proceeding of the EP and in spite of urgency, the learned Judge is not taking up the issue. Therefore, the petitioner is constrained to move the present civil revision petition.

3. The learned Counsel for the respondent would contend that the civil revision petition is not maintainable and therefore, has to be dismissed.

4. Heard the learned Counsel for the petitioner as well as the respondent and perused the materials placed before this Court.

5. It is the specific contention of the learned counsel for the petitioner that the auction has been bid by the respondent's own father and the petitioner would further state that he is ready to deposit the entire bid amount and therefore, this Court directed the petitioner to produce the demand drafts for the entire bid amount and today, the petitioner has produced the demand drafts in the name of the auction purchaser in Demand Draft No.705344 dated 20.03.2021 for the amount of Rs.3,25,000/- and Demand Draft No. 705348 dated 23.03.2021 for the amount of Rs.1,26,000/-. The demand drafts have been returned to the learned counsel for the petitioner to deposit the same before E.P Court. It is brought to the notice of this Court that the decree holder has already received his entire amount from the auction purchaser who is none other than his father. Admittedly, in the present case, appeal has been filed and in the stay petition, after obtaining time for filing counter has prosecuted the EP and his father was the auction purchaser. When *malafide* and illegality is attributed, this Court cannot be a mute spectator and therefore, in the circumstances of the case, to meet the ends of justice, the petitioner is directed to deposit the bid amount before the EP Court. The EP proceedings shall be kept in abeyance. On deposit, there shall be an order of interim stay of the EP proceedings. The E.P Court shall receive the above demand drafts and hand it over to the auction purchaser. This order will be without prejudice to the pending appeal filed by the petitioner.

6. The learned Judge shall dispose of the application within a period of eight weeks from the date of receipt of a copy of this order. With the above directions, the present Civil Revision Petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

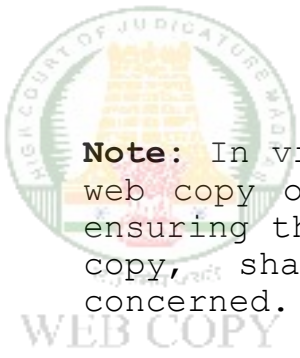
Sd/-

Assistant Registrar (CS II)

// True Copy //

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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.Principal District Judge, Tirunelveli.
- 2.The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.NIRANJAN.S.KUMAR, Advocate (SR-13756[F] dated 25/03/2021)

+1 CC to M/s.S.S.STHESIGAN, Advocate (SR-13957[F] dated 26/03/2021)

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RP (17.05.2021) P 5C