



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :03.03.2022

CORAM:

THE HONOURABLE MRS. JUSTICE S.ANANTHI

C.R.P (MD) .No.384 of 2022

and

C.M.P (MD) No.1674 of 2022

Sundarapandian

... Petitioner/Defendant

Vs.

K.Bharatharajan

...Respondent/Respondent

PRAYER : This Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order dated 15.12.2021 in E.A.No.01 of 2019 in E.P.No.88 of 2004 in O.S.No.131 of 2002 on the file of the Subordinate Judge, Devakottai.

For Petitioner	: Mr.V.R.Shanmuganathan
For Respondent	: Mr.S.Manikandan

O R D E R

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 15.12.2021 in E.A.No.01 of 2019 in E.P.No.88 of 2004 in O.S.No.131 of 2002 on the file of the Subordinate Judge, Devakottai.

2.E.A.No.1 of 2019 was filed by the respondent/plaintiff under Order 21 Rule 105 and 106 and Section 151 of Civil Procedure Code, to restore the E.P.No.88 of 2004, which was dismissed for default on 12.09.2018 on behalf of not representation of sale papers and the same was allowed by the learned Subordinate Judge, Devakottai on payment of cost of Rs.3,000. Aggrieved by the said order, the revision petitioner/defendant filed this Civil Revision Petition.

3.The learned counsel for the revision petitioner stated that the respondent/plaintiff has already appeared before the Court on 04.09.2018 and 11.09.2018. But the reason stated in the affidavit that he had attend the marriage on 12.09.2018 and therefore he did not know the facts that sale papers were returned. So the reason for the re-representation of sale papers stated in the affidavit is false.



4.A perusal of records show that already there is a valid decree and execution of decree and also re-presentation of sale papers for the matter between the Court and the E.P. petitioner. The respondent/plaintiff appeared before the Criminal Court on 04.09.2018 and 11.09.2018. The reasons stated in the affidavit that the respondent did not know the return of the sale papers on 03.09.2018 is false. But it cannot be relied as false evidence. Since the matter is between the Court and the respondent/plaintiff, the trial Court rightly allowed the E.A.No.1 of 2019. This Court finds no valid reason to interfere with the order of the Court below.

5.In view of the above, this Civil Revision Petition is dismissed and the order, dated 15.12.2021 in E.A.No.01 of 2019 in E.P.No.88 of 2004 in O.S.No.131 of 2002 passed by the learned Subordinate Judge, Devakottai, is hereby confirmed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsd

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

The Subordinate Judge,
Devakottai.

+1 CC to M/s.S.MANIKANDAN, Advocate (SR-9851[F] dated 03/03/2022)

+1 CC to M/s.VR.SHANMUGANATHAN, Advocate (SR-9938[F] dated 04/03/2022)

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MGJ(05.04.2022) 2P 4C