



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	25.03.2022
DELIVERED ON	19.04.2022

WEB COPY

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

CR.P. (MD)No.626 of 2022
and
C.M.P. (MD)No.2591 of 2022

S.V.Gandhi ...Petitioner/Petitioner/3rd party

Vs.

1.A.Kamatchi @ Kamatchia Pillai
2.A.Tamilselvan ...Respondents/Petitioners/Petitioners

PRAYER: Civil Revision Petition under Section 115 of Civil Procedure Code to set aside the fair and executable order dated 02.03.2022, and made in E.A.No. 55 of 2021 in E.P.No.27 of 2008 on the file of the learned District Munif, Vadipatti.

For Petitioner :Mr.R.Suriya Narayanan

For Respondents :Mr.K.K.Ravie

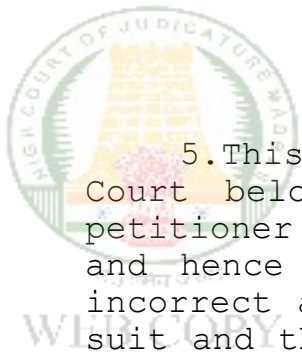
ORDER

These Civil Revision Petition has been filed by the revision petitioner to set aside the dated 02.03.2022 in E.A.No. 55 of 2021 in E.P.No.27 of 2008 on the file of the learned District Munif, Vadipatti.

2.The parties are referred to as per the rank mentioned before the Court below.

3.The revision petitioner/3rd party has filed an application in E.A.No.55 of 2021 to dismiss the petition in E.P.No.27 of 2008 on the ground that he has purchased the property from one Ramachandran on 28.06.2007. The said Ramachandran had purchased the properties from one Gurusamy on 15.10.1954. Aggrieved over the said dismissal order, the revision petitioner/3rd party is before this Court.

4.Heard on either side. Perused the material documents.



5.This Civil Revision Petition is filed on the ground that the Court below has dismissed the petition on the ground that the petitioner is not a Judgment debtor and he has not been dispossessed and hence no locus standi or the petition is premature one, is incorrect and illegal. The Court below has failed to see that the suit and the decree obtained by the respondents are fraudulent one, as the original owner of the suit property sold out the same even in the year 1965 but suppressed the said fact the suit is filed and collusive decree is obtained against and support of the alleged lessee, and in execution petition trying to take possession of the petitioner's property, hence illegal. The order passed by the Court below is liable to be set aside.

6.The said Ramachandran has filed a impleading petition in E.A.No.70 of 2004 in E.P.No.27 of 2008 and the said petition was dismissed for default on 01.03.2007. The Ramachandran has not taken any steps to set aside the order. After passing an order of default, the Ramachandran has sold the property to the present petitioner.

7.The predecessor in title is one Gurusamy. His grandson also filed an application in E.A.No.26 of 2008 to claim the tile over the E.P. property. It was dismissed on merits. No further proceedings against the order.

8. The revision petitioner has purchased the property in pending suit. The predecessor of the title also failed to establish their title and rights over the property.

9.The Judgment reported in 2021 (2) MWN (Civil) 544 (SC), R.Janakiammal vs. S.K.Kumarasamy, in which the Hon'ble Supreme Court held as follows:

"Order 21 Rule 97 & 99 - Execution of decree. - if an objection is received in respect of ''suit property'' under Order 21, Rule 97, or Rule 99 of CPC, at the stage of execution of the decree, the executing Court shall deal with it after taking into account the fact that no such objection or claim was received during the pendency of the suit, especially in view of the public notice issued during trial. Such claims under Order 21, Rule 97 or Rule 99, must be dealt strictly and be considered/entertained rarely."

10.Finally, this Civil Revision Petition is dismissed by confirming the order, dated 02.03.2022 in E.A.No. 55 of 2021 in E.P.No.27 of 2008 on the file of the learned District Munif,
<https://hcservices.ecourts.gov.in/hcservices/>



Vadipatti. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

WEB COPY

/ /2022

Sub Assistant Registrar(CS)

ksa

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 District Munif,
Vadipatti.

+1 CC to M/s.K.K. RAVIE, Advocate (SR-19854[F] dated 20/04/2022)

+1 CC to M/s.R. SURIYANARAYANAN, Advocate (SR-19831[F] dated 20/04/2022)

C.R.P. (MD)No.626 of 2022

19.04.2022

RD(28.04.2022) 3P 4C