



C.R.P (MD) No.1582 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 03.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

C.R.P (MD) No.1582 of 2022

and

CMP (MD) No.6790 of 2022

K.Vijayaragavan

... Petitioner

Vs

M.Durairaj

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside docket order of return of execution application dated 18.07.2022 in unnumbered E.A.No. Of 2022 on the file of the I Additional District and Sessions Judge, Dindigul and further direct the learned I- Additional District and Sessions Judge, Dindigul to number the Execution Application in unnumbered E.A.No. of 2022 by allowing this civil revision petition.

For Petitioners : Mr.S.Vikaram

ORDER

This civil revision petition is filed as against the docket order passed in unnumbered E.A. of 2022 dated 18.07.2022 on the file of the I-Additional District & Sessions Judge, Dindigul.



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2.This petitioner is the judgement debtor in the suit in O.S.No.92 of 2010 and the respondent in the execution petition. The suit was filed by the respondent/plaintiff in the year 2010 for specific performance based on the agreement entered into between the petitioner and the respondent dated 12.06.2008 in respect of the suit property, to direct the petitioner/defendant to receive the balance sale consideration of Rs.1,00,000/- and to execute the sale deed in favour of respondent/plaintiff. The suit was decreed on 22.02.2016 in favour of the respondent/plaintiff and subsequently the respondent/plaintiff had filed the above execution petition in E.P.No.201 of 2016 and the execution court has allowed the above petition and directed the judgement/debtor to execute the suit schedule property in favour of the respondent/plaintiff.

3.The execution court on the request of the petitioner fixed the amount, to be paid to the decree holder as Rs.22,38,796.50 and also directed to pay Rs.50,000/- every month to the respondent/plaintiff, failing which suit schedule properties will be brought to auction.



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The execution court fixed upset amount as Rs.40,00,000/- initially and later it was reduced by the executing court to Rs.35,00,000/- in the year 2018, since no bidder has come forward to purchase the suit schedule property.

4.While so, the judgement debtor filed a petition in CRP(MD)No.1498 of 2021 against the order allowing the petition in EA.No.2 of 2021 in E.P.No.201 of 2016 filed under order 21 Rule 66 and section 151 of CPC, by the decree holder to reduce the upset price from Rs.40,00,000/- to Rs.35,00,000/- and the said CRP was disposed of by fixing the upset price from Rs.35,00,000/- to Rs.37,00,000/-.

5.Now this petitioner/defendant has filed an appeal in unnumbered E.A.No of 2022 to increase the upset price from Rs.35,00,000/- to the current guideline and market value and also to bring a portion of schedule property alone for court auction, instead of auctioning the entire property. The Executing court had returned the application by raising certain questions and challenging the same petitioner has filed this civil revision petition.



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6.The petitioner has suffered a decree. The respondent has filed the execution petition in E.P.201 of 2016 and it was also allowed with a direction to the petitioner to pay monthly Rs.50,000/- towards the decree amount of Rs.22,38,796.50. The upset price was initially fixed by the Court as Rs.40,00,000/- and later it was reduced to Rs.35,00,000/- in the year 2018, since no one came forward to purchase the suit schedule property. Further, this Court vide order dated 10.03.2022 reduced the upset price from Rs.40,00,000/- to Rs.37,00,000/-.

7.Now this petitioner/defendant has filed an appeal in unnumbered E.A.No of 2022 to increase the upset price from Rs.35,00,000/- to the current guideline and market value and also to bring a portion of schedule property alone for court auction, instead of auctioning the entire property. The Executing court had returned the application by raising certain questions and challenging the same petitioner has filed this civil revision petition. This Court does not find any reason to interfere with the order of return by the Court and it is for the petitioner to answer the



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queries with supporting materials, if any in his favour.

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8.In the result this civil revision petition stands dismissed. No costs. Consequently connected miscellaneous petition also stands dismissed.

03.08.2022

dsk

To

I- Additional District
and Sessions Judge,
Dindigul.



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B.PUGALENDHI , J.

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