



C.R.P (MD) No.1051 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 08.07.2022

CORAM:

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

C.R.P (MD) No.1051 of 2020
and
CMP (MD) Nos.6699 of 2020 and 3122 of 2021

Govindan

... Petitioner

Vs

1.Vanaja (died)

2.Chandru

3.Karthick

4.Suganthi

5.Shanthi

6.Vasanthi

7.K.K.Balaji

... Respondents

[Memo dated 11.01.2022 in USR NO.159 is recorded as R-1 died and respondents 2 to 7, who are already on record as LRs of the deceased R1 vide Court order 20.01.2022 made in CRP (MD) No.1051 of 2020 and CMP (MD) No.6699 of 2020]



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PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records and set aside the fair and executable order dated 11.11.2020 passed in the application in I.A.No.415 of 2020 in O.S.No.1 of 2013 on the file of the IV Additional District Court, Madurai and allow the same.

For Petitioner : Mr.T.R.Jeyapalam

For Respondents : Mr.K.Sudalaiyandi

ORDER

This civil revision petition is filed as against the fair and decreetal order passed in I.A.No.415 of 2020 in O.S.No. 1 of 2013 dated 11.11.2020 passed by the IV Additional District Judge, Madurai.

2.The petitioner is the plaintiff in O.S.No.1 of 2013 and he filed the suit for specific performance based on an unregistered sale agreement dated 22.07.2011. The trial was over and the case was post for arguments. At that point of time, the petitioner has filed three applications, for reopening of the case, recalling of witness PW1 and for marking of certain documents. The trial Court allowed the applications for reopening of the case and recalling of



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PW1. However, the application filed for marking of certain documents was dismissed by the trial Court. Therefore the petitioner is before this Court.

3.The learned Counsel for the petitioner submits that the respondents received a sum of Rs.2,70,000/- with regard to the suit property as advance amount and executed a sale agreement dated 22.07.2011. However the respondents did not act as per the agreement. Therefore, the petitioner has filed the suit for specific performance. Pending suit, the respondents mortgaged the property before a Finance Company and availed a sum of Rs.12,00,000/- and failed to pay the installments. Therefore the finance company has initiated proceedings under Arbitration and Conciliation Act, 1996 and the respondents were directed to pay a sum of Rs.9,38,293/- with 18% interest. This amount was also not paid by the respondents. The finance company filed an execution petition in E.P.No.662 of 2015 in ACP.No.5 of 2013. While so, the petitioner has deposited the entire sum of Rs.13,87,818/- in the execution petition and filed a petition to raise the order of attachment. The petitioner/plaintiff is to pay a sum of Rs.65,00,000/- as balance



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amount pursuant to the sale agreement dated 22.07.2011.

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3.The learned Counsel for the petitioner further submits that at this juncture, the petitioner has filed an application in I.A.No.415 of 2020 for marking of those documents to show that he had discharged the amount borrowed by the respondents from the said finance company. However, the trial Court dismissed the application that the petitioner could produce those documents in the execution petition.

4.The learned Counsel for the respondents submits that the documents sought to be marked by the petitioner are court documents and they can be marked at any stage and therefore, the trial Court has rightly dismissed the application of the petitioner and therefore there is no reason to interfere with the orders of the trial Court.

5.This Court considered the rival submissions and perused the materials placed on record.



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6.The suit in O.S.No.1 of 2013 is filed for specific performance based on the sale agreement dated 22.07.2011. As per the agreement the petitioner has paid a part amount and the balance amount is to be paid. When the suit is at the stage of arguments, the petitioner has filed an interlocutory application for marking of certain documents. Pending the suit, the respondents has mortgaged the property with a finance company and however, the respondents failed to redeem the mortgage. The finance company initiated proceedings under Arbitration and Conciliation Act, 1996 and in conclusion the same, an award was passed. The said company filed an execution petition and further the suit property was brought for auction. The petitioner being interested party has also paid a sum of Rs.13,87,818/- and redeemed the mortgage. This Court is of the opinion that these documents are also relevant for just adjudication of the suit. Therefore, the trial Court is not justified in dismissing the application.

7.This civil revision petition is allowed and the impugned order passed by the trial Court is set aside. The trial Court is directed to mark the documents sought by



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the petitioner and conclude the trial within a period of three months from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petitions stand closed.

08.07.2022

dsk

To

IV Additional District Judge,
Madurai.



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B.PUGALENDHI, J.

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