



CRP No.622 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2023

CORAM :

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

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& CMP No. 4922 of 2023

R.S.Madhavan

.... Petitioner

-Vs-

- 1.B.Arungam
- 2.Santhi
- 3.The Sub Registrar,
O/o. The Sub Registrar,
Anna Nagar, Chennai – 600 040.
- 4.The Sub Registrar,
O/o. The Sub Registrar,
Kodaikannal, Dindigul District.
- 5.Sri Raj & Co.,
Govt. Auctioneers,
No.7, Sunkurama Chetty Street,
1st Floor, Chennai – 600 001.

.... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India, to allow the Civil Revision petition by directing the Vth Assistant City Civil Judge, Chennai to dispose of the I.A No.2 of 2022 in O.S No. 226 of 2018 pending on the file of the Vth Assistant City Civil Judge, Chennai, within a time stipulated by this Hon'ble Court.



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For Petitioner : Mr.S.Mukunth,
Senior Counsel.
For Respondents : Not Appeared

ORDER

This Civil Revision petition has been filed to allow the Civil Revision petition by directing the Vth Assistant City Civil Judge, Chennai to dispose of the I.A No.2 of 2022 in O.S No. 226 of 2018 pending on the file of the Vth Assistant City Civil Judge, Chennai, within a time stipulated by this Court.

2.The learned counsel for the petitioner submitted that petitioner has filed suit in O.S No. 226 of 2018, which is pending on the file of the Vth Assistant City Civil Judge, Chennai, for the relief of redemption, in that suit defendants also appeared and filed a written statement. Due to lack of communication between the petitioner and his lower court counsel, the petitioner was not able to appear before the Trial Court. Hence the suit was dismissed for default as no representation. Immediately, within a 30 days of exparte order, on 05.09.2022 the petitioner filed I.A No. 2 of 2022 in O.S No. 226 of 2018 to set aside the order of dismissal dated 25.08.2022 passed in O.S No. 226 of 2018 and respondent also filed counter. But the said application was pending till date for enquiry. Further



the Trial Judge failed to take note of the fact that interim injunction was granted in favour of the petitioner in I.A No. 659 of 2018 with a condition to deposit a sum of Rs.15,00,000/- and by which the first respondent was restrained from bringing the A schedule property for auction. Due to the exparte order dated 25.08.2022 the above said injunction order in I.A No. 659 of 2018 is not force which lead to the respondent to bring the suit A schedule property for auction. Hence he prays to allow this petition.

3. Considering the fact that the Trial Court has granted interim injunction in I.A No. 659 of 2018 with the condition to deposit a sum of Rs.15,00,000/- and the petitioner also deposited the said amount. Now the suit was dismissed for default due to non appearance of the petitioner. Thereafter, the petitioner filed I.A No.2 of 2022 on 05.09.2022 to set aside the exparte order which is pending. In the meantime, on 11.02.2023, the auction sale notice was issued to the petitioner. Despite depositing 15 lakhs for getting interim injunction, due to exparte order interim injunction is not in force and also the auction sale notice was issued to the petitioner. If I.A No.2 of 2022 is not decided, which cause great prejudice to the petitioner. Therefore, the Trial Court is directed to dispose I.A No. 2 of 2022 in O.S No. 226 of 2018, within a period of eight weeks from the date of receipt of a copy of this order. Further, the respondents are directed to not to auction the



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suit A schedule property till disposal of I.A No.2 of 2022 in O.S No.226 of 2018.

4. Accordingly this Civil Revision Petition is disposed of. No costs.

Consequently connected miscellaneous petition is closed.

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Index : Yes/No
Internet : Yes/No
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