



WEB COPY



CRP.No.2593 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRP.No.2593 of 2019 and
CMP.No.17080 of 2019

Kuppusamy

... Petitioner

Vs.

Shankar Vadivel

... Respondent

PRAYER: Civil Revision petition is filed under Section 115 of CPC praying to allow the above revision and set aside the fair and decretal order dated 04.02.2019 passed in EP.No.76 of 2018 in OS.No.25 of 2004 on the file of the Principal District Judge, Tiruvannamalai.

For Petitioner : Mr.P.Mathivanan

For Respondent : Mr.S.Sathish Rajan

ORDER

This civil revision petition has been filed to set aside the fair and decretal order dated 04.02.2019 passed in EP.No.76 of 2018 in OS.No.25 of 2004 on the file of the Principal District Judge, Tiruvannamalai, thereby dismissed the petition filed under Order 21 Rule 11(a) of CPC to attachment by pro-order of the amount.



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The petitioner is the defendant and the respondent is the plaintiff.

The respondent filed suit for specific performance in respect of the suit property on the ground that he entered into agreement for sale with the petitioner and the total sale consideration was fixed at Rs.40,00,000/-. On the date of agreement, the respondent paid a sum of Rs.30,00,000/- as an advance and thereafter, the petitioner failed to come forward to register the sale deed on receipt of balance sale consideration. The trial court decreed the suit. Aggrieved by the same, the petitioner preferred appeal suit in AS.No.260 of 2007. The Hon'ble Division Bench of this Court set aside the judgment and decree and dismissed the suit with cost. Aggrieved by the same, the respondent preferred Special Leave Petition before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India, by order dated 24.08.2017, dismissed the Special Leave Petition and further directed that the amount deposited by the respondent before the court shall be refunded to him along with interest, if any. Thereafter, the petitioner filed execution petition in EP.No.76 of 2018 for attachment by pro-order of the amount as mentioned in the petition as against the respondent herein. The court below dismissed the petition for the reason that when the Hon'ble Supreme Court of India ordered to get back his Rs.10,00,000/- in favour of the respondent herein and insofar as the cost, no



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order was passed by the Hon'ble Supreme Court of India.

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3. It is seen that the petitioner is also entitled for cost of a sum of Rs.3,39,452/- in the appeal suit. At the same time, the respondent is also entitled for balance sale consideration of Rs.10,00,000/- which was deposited by him before the trial court with interest, if any. Therefore, both the parties are at liberty to file appropriate petition in order to execute the order passed by the Hon'ble Division Bench of this Court in AS.No.260 of 2007 and the order passed by the Hon'ble Supreme Court of India in SLP.No.8609 of 2011 dated 24.08.2017.

4. Accordingly, this civil revision petition is disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

02.01.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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G.K.ILANTHIRAIYAN, J.



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To
The Principal District Judge,
Tiruvannamalai.

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