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CMP.Nos.18903 & 18905 of 2023
in S.A.No.60 of 2017

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T.V. THAMILSELVI, J.

In CMP.No.18903 of 2023, the petitioner has filed to cancel the documents (a) To declare settlement deed dated 21.02.2020 bearing Doc.No.2046 of 2020 registered in the office of the Sub-Registrar, Thiruvallur. (b) To declare the registered sale deed dated 27.04.2022, bearing document No.6406 of 2022 regd. in the office of the Sub Registrar, Thiruvallur as null and void, and In CMP.No.18905 of 2023, the petitioner has filed (a) to receive certified copy of Settlement deed dated 21.02.2020, bearing doc.No.2046 of 2020 regd. in the office of the Sub-Registrar, Thiruvallur and (b) Memorandum of deposit of title deed dated 18.12.2020 bearing Doc.No.12712 of 2020 Regd. in the office of the Sub Registrar, Thiruvallur execute by Anitha Priyakumari to and in favour of City Union Bank Ltd., (c) Deed of Receipt dated 22.04.2022, bearing Doc.No.6074 of 2022 Regd. in the office of the Sub-Registrar, Tiruvallur, discharging the said mortgage dated 18.12.2020 and (d) Registered Sale deed dated 27.04.2022, bearing Document No.6406 of 2022 Regd. in the office of the Sub-Registrar, Thiruvallur.



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2. Heard Mr. S.Krishnasamy, learned counsel for the respondent and perused the materials available in record.

3. The learned counsel for the respondent submitted that the Second appeal is pending from the year 2017, during the pendency of the Second appeal the appellant settled the suit property in favour of her daughter / Anitha Priya Kumari on 21.02.2020. Based on the said settlement deed dated 18.12.2020 the daughter of the appellant had deposited the title deed and obtained a loan from the City Union Bank Ltd., for a sum of Rs.12,25,000/-. Thereafter, the daughter of the appellant discharged the mortgage loan and released the original document deeds and proceeded with the sale to the third party and sale deed was executed in favour of the third party. Therefore, the petitioner has filed the suit for specific performance, to enforce the agreement of sale and also filed application to set aside the documents executed during the pendency of the second appeal proceedings. Thereby, those transactions are hit by principle of lis-pendent purchasers and so they cannot claim any legal right in the suit property, as per under Section 52 of the Transfer of Properties Act, and prayed to declare the sale deed as null and void.



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4. The plaintiff filed a suit for the relief of specific performance, directing the defendant to execute the sale deed. Sale agreement was executed on 26.08.2006 / Ex.P2. The defendant denied the alleged sale agreement. Both the parties adduced oral and documentary evidence before the trial Court. The plaintiff has proved that he was always ready and willing to perform his part of the contract and he had in fact deposited the balance sale consideration into the Court deposit. Based on the oral and documentary evidence the learned trial Judge hold, decreed the suit in favour of the plaintiff and the same was confirmed by the learned Principal District Judge, Tiruvallur in A.S.No.21 of 2014.

5. Challenging the concurrent findings of the Courts below, the appellant has filed the above Second appeal with an intention to defeat the plaintiff's right over the property and to declare the documents as null and void. On bare perusal of the earlier findings, it reveals that the appeal filed by the defendant in A.S. No.21 of 2014 against the findings of the trial Court, wherein the respondent / plaintiff was declared as the original owner of the suit property. Though the relief claimed by the petitioner / defendant was bared by limitation, sut he was not inclined to proceed with the matter,



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so the appeal was adjourned for many times. The petitioner / defendant is also not inclined to proceed with the appeal, therefore the prayer sought in the above Civil Miscellaneous Petitions is justifiable.

6. On seeing the conduct of the defendant, this Court is inclined to allow these Civil Miscellaneous Petitions. Accordingly, these Civil Miscellaneous Petitions are allowed.

15.09.2023

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