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CRP.No. 3156 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

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and

CMP.Nos. 19533 & 19536 of 2023

Kaviraj R

... Petitioner

Versus

A.N. Vijayakumar

.. Respondent

Civil Revision Petition filed under Section 115 of CPC., prays to set aside the order dated 11.07.2023 passed by the X Assistant City Civil Court, Chennai in EA.No. 7 of 2023 in EP.No. 4562 of 2019 pending the above CRP.

For Petitioner : Mr.Rajeni Ramadass
For Respondent : Mrs.Chitra Sampath
Senior Counsel
For Mr.T.S. Baskaran For Caveator



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to buy the property. The upset price is higher than the market value. As such, no bidder for upset price fixed at Rs.55,00,000/- and hence, this petition is filed to reduce the upset price from Rs.55,00,000/- to Rs.50,00,000/-. After perusing the records, the trial Court allowed the Execution Application by order dated 11.07.2023, the upset price was fixed at Rs.52,00,000/-. Aggrieved by the said order, the respondent/Judgment Debtor has come forward with the present Civil Revision Petition.

3. Per contra, the learned counsel for the respondent/Decree Holder submitted that the subject property was originally purchased by the respondent's father through Bank loan during 1969 from T.S.Ramachandran and T.S.Subramaniam by way of registered Doc.No. 1450 of 1969. After purchasing the property, he settled a part of the property at No.154, Vellala Street, Purasawalkam, Chennai - 600 084, part of the other portion was left unsettled and that the portion devolves on all the legal heirs of late.K.Ramiah, who is the respondent's father. The petitioner himself accepted his petition, originally the agreement of sale was entered with the petitioner for the property owned by him situated at No.15, Vengu Pillai Street, Egmore. The petitioner/Judgment Debtor has



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category and wrongly valued the said property at Rs.50,00,000/-. The Government of Tamil Nadu guideline value of the said property Rs.99,00,000/- for the second floor and Rs.50,00,000/- for the third floor and the market value of the portion is admeasuring about 1419 sqft, owned by the respondent is Rs.6,30,00,000/-. The value of the said property stated by him to reduce the upset price from Rs.55,00,000/- to Rs.50,00,000/- is not acceptable one and hence, the above Civil Revision Petition is liable to be dismissed.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

5. It is seen that the petitioner is the Judgment Debtor and the respondent is the Decree Holder. The respondent filed the suit in O.S.No. 6856 of 2011 for recovery of sum of Rs.20,00,000/- from the petitioner being the sum paid as advance by way of agreement of sale, dated 04.12.2008 entered into between the plaintiff and the defendant. The suit was decreed in favour of the respondent dated 17.07.2017 directing the defendant to pay a sum of Rs.20,00,000/- to the respondent/Decree Holder



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with interest at 8% p.m. from the date of agreement till the date of realization. It is admitted fact that the schedule mentioned immovable property which was belonging to the revision petitioner/Judgment Debtor was already attached in IA.No. 14480/2011 in O.S.No. 6856 of 2011.

6. It is also seen that though the revision petitioner/Judgment Debtor has filed counter affidavit stating that in spite of sufficient opportunity was granted by the trial Court, the Judgment Debtor has not submitted his arguments and after perusing the records, the trial Court passed the order. The allegation in the counter that the market value of the property and the guideline value of the property are high and the same was not proved by the petitioner/Judgment Debtor through documentary evidence. Therefore, the contention of the judgment debtor, the value of the property is Rs.6,30,00,000/- deserves no merits. However, the trial Court already fixed the upset price of Rs.55,00,000/- and there was no bidders for the public auction held on 17.03.2023. Moreover, the value of the property was not sold in public auction. Therefore, the trial Court ordered the upset price was reduced from Rs.55,00,000/- to Rs.52,00,000/- . The trial Court has rightly ordered in the Execution Application by order



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dated 11.07.2023.

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7. This Court by order dated 24.08.2023 granted an interim stay of the operation of the order dated 11.07.2023 and the consequential proclamation of sale order dated 10.08.2023 passed by the X Assistant City Civil Court, Chennai in EA.No. 7 of 2023 in E.P.No. 4562 of 2019 and subsequently, interim order has not complied with by the revision petitioner/defendant/judgment debtor and there is no merits in the Civil Revision Petition and the same is liable to be dismissed.

8. Accordingly, the Civil Revision Petition is dismissed. The Executing Court is directed to proceed further in the manner known to law. No costs. Consequently, connected Miscellaneous Petitions are closed.

20.09.2023

Index: Yes/No
Speaking order/Non-speaking order
Neutral Citation: Yes/No

V.BHAVANI SUBBAROYAN, J.



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MSM

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