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C.R.P.No.3742 of 2001

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2023

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.No.3742 of 2001

Thimmakkal

.. Petitioner

Vs.

Lakshmaiya Chetty

.. Respondent

Prayer:- Civil Revision Petition filed under Section 115 CPC as against the Judgment and order dated 29.06.2001 in C.M.A.No.29 of 2000 on the file of the Principal District Judge, Dharmapuri in confirming the order and decreetal order dated 21.04.1993 in I.A.No.179 of 1994 against I.A.No.625 of 1991 in O.S.No.516 of 1989 on the file of the District Munsif, Krishnagiri.

For Petitioner : M/s V.Srimathi

For Respondent : No appearance

ORDER

This Civil Revision Petition has been filed as against the Judgment and order dated 29.06.2001 in C.M.A.No.29 of 2000 on the file of the Principal District Judge, Dharmapuri in confirming the order and decreetal order dated 21.04.1993 in I.A.No.179 of 1994 against I.A.No.625 of 1991 in O.S.No.516 of 1989 on the file of the District Munsif, Krishnagiri, thereby dismissed the Civil Miscellaneous Appeal.



2. The respondent filed a suit for specific performance in O.S.No.516 of 1989, on the strength of the agreement for sale dated 19.11.1979. However, the petitioner herein failed to execute the sale deed on receipt of the balance sale consideration, though the respondent was always ready and willing to perform his part of contract. Therefore, the respondent filed a suit and the same was decreed by the Judgment and Decree dated 12.01.1990. The petitioner filed an application to set aside the exparte decree in I.A.No.625 of 1991. Since the respondent was absent, the said petition was allowed and the exparte decree was set aside. However, the respondent filed an execution petition in E.P.No.98 of 1990, in order to execute the exparte decree. In the execution petition, the sale deed was executed by the Court in favour of the respondent and possession was also handed over on 01.10.1992.

3. Therefore, the respondent filed a petition to review the order passed in I.A.No.625 of 1991. The Trial Court by an order dated 21.04.1993, recalled the order passed in I.A.No.625 of 1991 and dismissed the application in I.A.No.625 of 1991. Aggrieved by the same, the petitioner herein filed Civil Miscellaneous Appeal before the first appellate Court. The order passed in I.A.No.625 of 1991 is an appealable order. However, those facts were not brought to the notice of the Court and as such in the execution petition, the execution Court executed



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the sale deed in favour of the respondent in respect of the suit schedule property.

4. Therefore, the first appellate Court had rightly dismissed the appeal and this Court finds no infirmity or illegality in the order passed by the Court below and this revision is liable to be dismissed.

5. Accordingly, this Civil Revision Petition is dismissed. No costs.

27.01.2023

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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G.K.ILANTHIRAIYAN,J.

mn

To

1. The Principal District Judge, Dharmapuri.
2. The District Munsif Judge, Krishnagiri.

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