



C.R.P.(MD).No.70 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 21.02.2023

Pronounced on : 01.03.2023

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.R.P.(MD).No.70 of 2023

S.Rasalam

... Petitioner / Defendant

Vs.

1.Saul

2.T.Edwin

3.Alwin @ Alaban

4.Godwin

5.Hency Beula

... Respondents / Plaintiffs

Prayer: Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the order in EA.No.6/2022 in EP.No.77/2005 in O.S. No.105/2002 on the file of Sub Court, Padmanabhapuram within stipulated time.

For Petitioner : Mr.J.Gunaseelanmuthiah



C.R.P.(MD).No.70 of 2023

ORDER

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The Civil Revision Petition is filed to set aside the order in EA.No.6 of 2022 in EP.No.77 of 2005 in O.S.No.105 of 2002 on the file of Sub Court, Padmanabhapuram.

2. The petitioner was a successful bidder in a Court auction sale made pursuant to the decree in O.S.No.105 of 2002 on the file of the Sub Court, Padmanabhapuram. As per the Court direction, he had deposited Rs.3,92,430/-. Meanwhile, the judgment debtor had filed a petition in E.A.No.65 of 2012 to set aside the sale and the same was allowed on 09.09.2020. While setting aside the sale, the Court had passed the following order:

“28. And at the same time, the auction purchaser who had bonafidely purchased the property for Rs.3,60,000/- should not get affected. It is understand that the amount deposited by the Auction purchaser was not withdrawn by the decree holder and the said amount has been invested in the Bank and now, the said amount of Rs.3,60,000/- has increased with interest and so there won't to be any loss for the Auction Purchaser.”

However, it is the case of the petitioner that the amount in deposit was not invested in any bank and the invested amount did not carry any interest.



C.R.P.(MD).No.70 of 2023

3. The petitioner had filed EA.No.6 of 2002 praying for return of the deposit amount of Rs.3,92,000/- with interest. The Court below found that the petitioner had deposited Rs.3,60,000/- on 24.03.2012 being the auction amount. He had further deposited Rs.10,830/- which is the bondage fee and Rs.21,600/- towards stamp duty on 12.01.2012. Though the petitioner had claimed 24% interest, the Court below found that the petitioner was entitled to refund of Rs. 3,60,000/- being the auction sale amount and Rs.21,600/- being the stamp duty deposited by the petitioner along with interest at the rate of 6% per annum. The Court below found that the Executing Court had not directed refund of Rs.10,830/- deposited by the petitioner as bondage fee and hence found that the petitioner is not entitled to refund of the said amount. The Court below therefore held that the petitioner is entitled to 6% interest on Rs.3,60,000/- and Rs.21,600/-. The petitioner has challenged the said order stating that had the deposit been made in a fixed deposit, the petitioner would have earned higher rate of interest. The interest awarded by the Execution Court is not in accordance with law. Further, the learned counsel for the petitioner submitted that the petitioner is entitled to refund of the bondage amount of Rs.10,830/- along with interest.

4. This Court on perusal of the impugned order finds that the amount deposited by the petitioner has been refunded with 6% interest. The petitioner



C.R.P.(MD).No.70 of 2023

had filed a calculation sheet stating that he would have earned higher rate of interest, had the same been deposited in a fixed deposit. However, there is no basis for the said calculation sheet produced by the petitioner. The petitioner was also unable to substantiate as to how he is entitled to higher rate of interest. In such view of the matter, this Court finds no infirmity in the order passed by the Court below awarding 6% interest on the amount deposited by the petitioner. The petitioner further claimed that he is entitled to refund of Rs.10,830/- paid as bondage fee. This Court finds that the reason given by the Court below in not refunding Rs.10,830/- is justified as the Execution Court has not referred about the refund of the said amount of Rs.10,830/- in its order. Since the reason given by the Court below cannot be faulted, this Court finds no reason to interfere with the order passed by the Court below.

5. In view of the above, the Civil Revision Petition deserves to be dismissed and hence dismissed. There shall be no order as to costs.

01.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Lm



C.R.P.(MD).No.70 of 2023

To

- 1.The Sub Court,
Padmanabhapuram.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P.(MD).No.70 of 2023

SUNDER MOHAN, J.

Lm

Order made in
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01.03.2023