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C.R.P.Nos.1020 and 1021 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P. Nos.1020 and 1021 of 2024

1. Gowri W/o. Muralidharan

2. Muralidharan

... Petitioners common in both C.R.Ps.

vs.

A. Vidya

represented by her father and Power Agent

Mr. B. Alagar

... Respondent common in both C.R.Ps.

Prayer in C.R.P. No.1020 of 2024: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, praying to set aside the fair and decreetal order datd 10.10.2023 in E.A. No.3334, 3335, 3336 and 3337 of 2018 in E.A. No.1809 of 2016 in E.P. No.4009 of 2014 passed by the learned IX Assistant Judge, City Civil Court, Chennai.

Prayer in C.R.P. No.1021 of 2024: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, praying to set aside the fair and decreetal order datd 10.10.2023 in E.A. No.3335 of 2018 in E.A. No.1809 of



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2016 in E.P. No.4009 of 2014 passed by the learned IX Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr. S. Santhosh Kumar [both C.R.Ps]

COMMON ORDER

These Civil Revision Petitions are filed challenging the order passed by the Executing Court dismissing the application filed by the petitioner seeking re-delivery of a property and dismissing the petition filed by the petitioner not to record delivery in E.P. No.4009 of 2014 in O.S. No.7907 of 2010.

2. The respondent herein filed a Suit for specific performance in O.S. No.7907 of 2010 against one S.N. Seraman and S. Kalpana. The said Suit was filed on 20.08.2010 and the same was decreed on 21.01.2011. It is seen from the impugned order violating the interim injunction against the alienation, granted by the Court, the defendants in the said Suit, sold the suit property in favour of one Ashok Kumar on 24.08.2010 and thereafter the said property was purchased by the petitioner from said Ashok Kumar on 26.09.2010. Therefore, the petitioner is not having any independent right over



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the suit property and he is only a person claiming right under the judgment-debtors / defendants.

3. The respondent herein filed an E.P. No.4009 of 2014 for delivery of property and the delivery was also effected. At this juncture, these applications have been filed by the petitioner seeking re-delivery and also direction to the executing court not to record delivery.

4. The learned counsel for the petitioner vehemently contended that the petitioner is a bonafide purchaser having no knowledge about the pendency of Suit and therefore the decree passed in O.S. No.7907 of 2010 will not affect his right. In support of his contention, the learned counsel for the petitioner relied on the judgment in *Vimala Ammal vs. C. Suseela and others reported in AIR 1991 Mad 209*.

5. It is settled law, the defence of the bonafide purchaser is not available to doctrine of lis pendens under Section 52 of Transfer of Property Act. The *pendente lite* purchaser is not entitled to say that he purchased the property without notice of pendency of Suit and therefore any decree passed



in the Suit would not bind him. As mentioned earlier, the petitioner's vendor Ashok Kumar purchased the property from the judgment-debtor pending suit violating interim injunction. Thereafter, the said Ashok Kumar sold the property to the petitioner pending suit. Therefore, the petitioner has no independent right over the property and he is claiming right under judgment-debtor. Therefore, the decree passed against the defendants in O.S. No.7907 of 2010 / judgment-debtors will bind the petitioner.

6. As far as the case law cited by the learned counsel appearing for the petitioner in *Vimala Ammal vs. C. Suseela and others reported in AIR 1991 Mad 209* is concerned, in the said case, the 3rd party obstructor / petitioner purchased the property even prior to filing of the Suit without knowledge of the sale agreement and hence the Court held that the 3rd party obstructor was the bonafide purchaser. However, in the case on hand as mentioned earlier, the property was purchased by the petitioner as well as his vendor Ashok Kumar pending Suit and the defence of bonafide purchaser is not available to doctrine of lis pendens. In such circumstances, I do not find any merit in this revision to enable this Court to interfere with the order passed by the



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executing Court.

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7. Accordingly, these Civil Revision Petitions are dismissed. No costs.

Connected miscellaneous petitions are closed.

20.03.2024

Index : Yes / No

Speaking order : Yes / No

Neutral Citation : Yes / No

mjs

To

The IX Assistant Judge, City Civil Court, Chennai



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S.SOUNTHAR, J.

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