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C.R.P.(PD).No.608 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.608 of 2020
and CMP.Nos.3188 and 3190 of 2020

1.M.Mohan
2.V.S.Saranya
3.M.Vijayakumar

... Petitioners

vs.

1.K.Gandhi @ Karuppaiah
2.Selvi @ Shanthi
3.M.Sivaraj
through his Power Agent,
Selvi @ Shanthi
D/o.Late Murugesan,
No.425, Ashtalakshmi Nagar, 23rd Street,
Valasaravakkam, Chennai – 600 087.

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the ex-parte judgment and decree passed in O.S.No.25 of 2012, dated 06.06.2013 on the file of the IV Additional District Judge, Ponneri and allow the Civil Revision Petition.

For Petitioners : Mr.R.Bharanidharan

For Respondents : Mr.R.Narayanan for R1
No appearance for R2 and R3



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ORDER

The Civil Revision Petition is filed seeking to set aside the ex-parte decree obtained by the first respondent against the respondents 2 and 3 in O.S.No.25 of 2012 on the file of the IV Additional District Judge, Ponneri.

2. It is the case of the petitioners that he acquired title to the suit property long prior to the suit sale agreement dated 04.03.2008 and hence the suit sale agreement allegedly entered into between the respondents 2 and 3 was not valid and they had no right over the suit property to enter into an agreement.

3. Admittedly, the petitioners are third parties and they are not party to the ex-parte decree. In such circumstances, the ex-parte decree obtained by the first respondent against the respondents 2 and 3 will only bind them. Therefore, the Civil Revision Petition is disposed of with a clarification that the ex-parte decree impugned in this revision will not bind



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or affect the rights of the petitioners.

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4. It is also brought to the notice of this Court that the first respondent already filed execution petition in E.P.No.116 of 2015 and in the said execution proceedings, the petitioners herein filed an application under Order 21 Rule 97 of CPC to adjudicate their rights. The executing Court is directed to consider the said application and dispose of the same in accordance with law.

5. Any final order in execution proceedings shall be passed only after adjudication of the application filed by the petitioners.

6. Accordingly, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To

The IV Additional District Judge,
Ponneri.

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Today, the matter is listed under the caption 'For being mentioned' at the instance of the learned counsel for the petitioners.

2.The learned counsel for the petitioners brings it to the notice of this Court that in the Paragraph No.2 of the order, the agreement date was wrongly mentioned as 04.03.2008 instead of 04.07.2008. The learned counsel also submits that the sale agreement referred to in Paragraph No.2 was entered between the 1st respondent on the one hand and 2nd and 3rd respondents on the other hand but the same was wrongly mentioned as “entered between respondents 2 and 3”.

3. Therefore, registry is directed to correct the sale agreement date mentioned in Paragraph No.2 as 04.07.2008 instead of 04.03.2008. The words in line No.3 of Paragraph No.2 “between the respondents 2 and 3” shall be substituted by the words “ between the 1st respondent on the one



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hand and respondents 2 and 3 on the other hand”

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4. Registry is directed to issue fresh order copy by incorporating the above said changes.

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