



C.R.P.(NPD).No.1529 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(NPD).No.1529 of 2021

and

C.M.P.No.11991 of 2021

and

C.M.P.No.3164 and 2022

Ramu Gounder

... Petitioner

VS

Selvam

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside fair and decreetal order in REA No.33 of 2020 in REA No.34 of 2020 in EP.No.56 of 2018 in O.S.No.53 of 2016 on the file of Sub Court, Vaniyambadi, Vellore District dated 05.11.2020.

For Petitioner : Mr.K.Thiruvengadam

For Respondent : Mr.R.Vasudevan



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ORDER

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The Civil Revision Petition is filed challenging the order passed by the Court below allowing the petition filed seeking police protection to effect delivery.

2. The respondent herein filed a suit for specific performance of agreement dated 17.10.2013. The suit was compromised between the parties in Lok Adalat and the Lok Adalat Award was passed on 10th February, 2018. As per the terms of Lok Adalat Award, the petitioner herein agreed to pay a sum of Rs.5,25,000/- with interest at the rate of 9% from the date of sale agreement within 50 days from the date of Lok Adalat Award. It was also stipulated that in case of failure of the petitioner to pay the amount as agreed, the respondent herein is entitled to get the sale deed registered in his favour.

3. Since the petitioner failed to pay the amount as per the terms of Lok Adalat Award, the respondent herein filed execution petition and got the sale deed executed. Thereafter, the respondent filed an application in R.E.A.No.33 of 2020 seeking police protection for effecting delivery of the suit property.



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WEB COPY 4. It is seen from the impugned order the notice was ordered to the respondent in petition seeking police protection, the respondent's counsel, who entered appearance in execution petition, refused to receive notice. Therefore, the Court below allowed the petition seeking police protection without any discussion. The approach of the Court below in allowing the petition seeking police protection, when respondent's counsel refused to accept notice is not proper. Even assuming notice is deemed to be served on refusal by the respondent therein to receive the notice, the Court below is expected to consider the averments found in the petition seeking police protection and arrive at a conclusion based on merits of the case. The impugned order, being a non-speaking one, is liable to be set aside and accordingly, the Civil Revision Petition is allowed by setting aside the fair and decreetal order dated 05.11.2020 passed in R.E.A.No.34 of 2020 on the file of the Subordinate Judge, Vaniyambadi, Vellore District. The matter is remanded back to the file of Subordinate Court, Vaniyambadi with a direction to consider R.E.A.No.34 of 2020 afresh. Both the parties are directed to appear before the Court below on 09.02.2024. The petitioner herein is given time till 16.02.2024 to file his



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counter, if any, to R.E.A.No.34 of 2020. Thereafter, the Court below shall

consider the application on merits and dispose it of on or before 08.03.2024.

No costs. Consequently, the connected civil miscellaneous petitions are closed.

19.01.2024

Index : Yes / No

Speaking order : Yes / No

Neutral Citation : Yes / No

dm

Note: Issue order copy on 23.01.2024.



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To

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The Sub Court, Vaniyambadi,
Vellore District.



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S.SOUNTHAR, J.

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