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C.R.P.No.4025 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

C.R.P.No.4025 of 2024 and
C.M.P.No.22138 of 2024

K.Thanigaimalai

... Petitioner

Vs.

The Deputy Registrar (Housing),
Chengalput Division,
No.18, Varadhanar Street,
Alagesan Nagar,
Chengalput 603 001.

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 13.12.2023 passed by the Principal District Judge, Kancheepuram District, Chengalpattu in Co-operative Civil Miscellaneous Appeal No.3 of 2015 by confirming the order dated 29.08.2008 passed in C.E.P.No.240/2008-2009 on the file of the respondent.

For Petitioner : Mr.K.Kathiresan

For Respondent : Mr.B.Tamilnidhi, AGP



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ORDER

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This Civil Revision Petition has been preferred to set aside the order dated 13.12.2023 passed by the Principal District Judge, Kancheepuram District, Chengalpattu in Co-operative Civil Miscellaneous Appeal No.3 of 2015 by confirming the order dated 29.08.2008 passed in C.E.P.No.240/2008-2009 on the file of the respondent.

2. Heard Mr.K.Kathiresan, learned counsel for the petitioner and Mr.B.Tamilnidhi, learned Additional Government Pleader for the respondent and perused the materials available on record.

3. The petitioner claims himself as a third party and he is not related to one Damodharan against whom surcharge proceedings have been initiated, for which, certain property has been attached. It is submitted by the learned counsel for the petitioner that the petitioner is the actual owner of the property and he has purchased the property from one Anbalagan. The learned Principal District Judge has chosen to



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dismiss the Appeal preferred by the petitioner to raise the attachment on the observation that the petitioner did not produce any documents to show that the property stands in his name and that he is a bonafide purchaser of the property from one Anbalagan.

4. The petitioner has produced the sale deed before this Court and it appears to be a registered sale deed dated 28.03.2003 executed by one Anbalagan. The fact remains that Anbalagan is the son of Damodharan against whom surcharge proceedings has been initiated. Had the petitioner produced these documents before the Lower Court, it would have been possible for the Court to appreciate the genuineness of the transaction between this petitioner and Anbalagan or whether Anbalagan acted only as benami for Damadharan. Since the essential facts were omitted to be appreciated in view of the required documents were not produced before the Lower Court, I feel the matter needs to be remitted back to the file of the Principal District Judge, Chengalpattu, in order to re-appreciate the matter by giving opportunity to the petitioner to produce any additional documents.



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5. In view of the above stated reasons, this Civil Revision Petition is disposed and the order passed in C.M.A.No.3 of 2015 dated 13.12.2023 is set aside and the matter is remitted back to the file of the Principal District Judge, Chengalpattu, for disposing afresh after giving opportunity to produce any additional evidence, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

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To

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1. The Principal District Judge,
Kancheepuram District, Chengalpattu
2. The Deputy Registrar (Housing),
Chengalput Division,
No.18, Varadhanar Street,
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Chengalput 603 001.



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R.N.MANJULA, J.

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