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C.R.P.No.3232 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.No.3232 of 2024

G.Jayasarala

... Petitioner

Vs

Nil

... Respondent

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India, pleased to set aside the docket order dated 26.02.2024 passed in I.A.No.4 of 2023 in HMGOP No.109 of 2022 on the file of the learned Principal District and Sessions Judge, Chennai and consequently, permit the petitioner to comply with the conditions as order in HMGOP No.109 of 2022 dated 19.09.2022.

For Petitioner : Mr.M.Thangadurai

ORDER

This Civil Revision Petition has been filed by the petitioner against the docket order passed by the learned Principal District and Sessions Judge, Chennai, in I.A.No.4 of 2023 in HMGOP No.109 of 2022 dated 26.02.2024.



C.R.P.No.3232 of 2024

WEB COPY

2. The brief facts of the case is as follows :-

2.1. The petitioner, who is the mother of Minor G.Thiruvikaraman born on 09.06.2007, has filed a petition in HMGOP No.109 of 2022 under Section 8(2)(A) of the Hindu Minority and Guardianship Act, 1956, before the learned Principal District and Sessions Judge, Chennai, with the following prayer,

(i) to execute a Joint Venture Agreement on behalf of her son with builder M/s.Aswin Foundations Private Limited represented by Britto Francis in respect of undivided share of land 600 sq.ft out of 1206 sq.ft of undivided share of land belonged to minor, which is part and parcel of the petition mentioned schedule property;

(ii) to permit the petitioner to deposit a sum of Rs.66,00,000/- as non-refundable amount in the bank account of minor in any of the nationalized bank within the time stipulated by the Court and to permit the petitioner to receive interest amount accrued in the above savings account for the welfare and care of his minor son until he attains the age of majority; and

(iii) to allot a flat bearing No.F1 in the first floor having built



C.R.P.No.3232 of 2024

up area 1401 sq.ft along with one ear marked car park in the stilt level with all services, connections, deposits and rights in common in accordance with consent affidavit of builder enabling the petitioner to sell the share of minor in petition mentioned schedule property for that purpose to execute necessary sale deed.

2.2. The learned Principal District and Sessions Judge, City Civil Court, Chennai, vide order dated 19.09.2022 had allowed the petition and had permitted the petitioner to execute a Joint Venture Agreement on behalf of her son with builder M/s.Ashwin Foundations Private Limited represented by its Managing Director Britto Francis in respect of undivided share of land 600 sq.ft out of 1206 sq.ft of undivided share of land belonged to minor and to execute the necessary Sale Deed on behalf of her son with the said builders by receiving a sum of Rs.66 lakhs being sale consideration by means of demand draft drawn in favour of the Registrar, City Civil Court, Chennai to the account of HMGOP No.109 of 2022.

2.3. Further, the learned Principal Judge had directed the petitioner to deposit the demand draft immediately into the Court with bank account details so



C.R.P.No.3232 of 2024

as to transfer the interest amount to that account and the office was directed to invest the said amount of Rs.66 lakhs in the name of petitioner's minor son in a Nationalized bank till he attains majority. The Court had also permitted the petitioner to receive the interest once in three months.

2.4. The learned Judge, while passing the order, had imposed a condition that all the transactions should be completed within three months from 19.09.2022, failing which, the permission stands canceled and also directed the petitioner to produce the copy of the Joint Venture Agreement as well as the Sale Deed before the Court.

2.5. Thereafter, since the petitioner was unable to comply with the condition, she had filed an application in I.A.No.2 of 2022 under Section 148 CPC seeking to extend the time to comply with the conditions imposed by that Court in HMGOP No.109 of 2022 on 19.09.2022. The learned Principal Judge, by an order dated 28.08.2023, had extended the time for further period of three weeks to conclude the sale.



C.R.P.No.3232 of 2024

2.6. However, even thereafter, the petitioner could not comply with the condition, thereby, she had filed an application in I.A.No.4 of 2023 on 31.10.2023 under Section 151 of CPC seeking to permit the petitioner to deposit the demand draft for a sum of Rs.66 lakhs along with the Power of Attorney in in HMGOP No.109 of 2022 and accept the same. The learned Principal Judge, City Civil Court, Chennai, vide order dated 07.12.2023, on considering the submission made by the learned counsel for the petitioner and the welfare of the minor, permitted the petitioner to deposit the Demand Draft No.026907 dated 11.09.2023 for a sum of Rs.66 lakhs drawn in favour of the Registrar, City Civil Court, Chennai from HDFC Bank along with the registered Power of Attorney dated 22.09.2023 in HMGOP No.109 of 2022 and listed the matter on 29.01.2024 to produce the copy of the Sale Deed.

2.7. Thereafter, since the Sale Deed was not ready, the matter had been adjourned twice and when the matter was listed on 26.02.2024, since the petitioner was unable to produce the copy of the Sale Deed, the learned Principal District and Sessions Judge, City Civil Court, Chennai has dismissed the application. Challenging the same the present Civil Revision Petition has been



C.R.P.No.3232 of 2024

filed.

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3. Learned counsel for the petitioner submitted that as ordered by the Court, the Demand Draft for a sum of Rs.66 lakhs had been taken in favour of the Registrar, City Civil Court, Chennai, however, due to some miscommunication and without proper understanding of the order, the sale deed was not made ready and since the sale deed was not produced before the Principal District and Sessions Court, the learned Judge had dismissed the application filed by the petitioner in I.A.No.4 of 2023. He further submitted that the petitioner has pursued the matter in a bonafide manner and since the validity of the Demand Draft has been lapsed, now a fresh Demand Draft No.020936 dated 12.08.2024 for a sum of Rs.66 lakhs drawn in favour of the Registrar, City Civil Court, Chennai, from HDFC Bank, has been taken and the copy of the sale deed is also made ready.

4. He also submitted that if further period of time is granted, the petitioner is ready to comply with the condition imposed in HMGOP No.109 of 2022 on 19.09.2022 by uploading the Sale Deed in the website of the Registration Department and obtain a token and pay the necessary fees for registration and



C.R.P.No.3232 of 2024

conclude the sale. He further submitted that if the revision petition is not allowed and the time is not extended, all the efforts taken would end in vain and thereby, he seeks to set aside the order passed in I.A.No.4 of 2023 and issue direction to the learned Principal District and Sessions Judge, Chennai to accept the Demand Draft and Sale Deed and permit the petitioner to conclude the sale procedure.

5. Heard the learned counsel for the petitioner and perused the materials available on record including the Affidavit filed by one Britto Francis, Managing Director of M/s.Ashwin Foundations Private Limited, who is the proposed buyer.

6. It is seen from the records that the Principal District and Sessions Court, Chennai vide order dated 19.09.2022, allowed the petition filed by the petitioner in HMGOP No.109 of 2022 with certain conditions and subsequently, extended the time has been to comply with the conditions imposed in the above order. However, due to some mis communication, the petitioner was unable to produce the sale deed before the Court, therefore, the learned Principal District and Sessions Judge, City Civil Court, Chennai, had dismissed the application filed by the petitioner in I.A.No.4 of 2023 under Section 151 of CPC vide order dated



C.R.P.No.3232 of 2024

26.02.2024. Now, the petitioner has produced the copy of both the Sale Deed and the fresh Demand Draft drawn on 12.08.2024 before this Court.

7. In view of the above, the order passed by the learned Principal District and Sessions Judge, City Civil Court, Chennai, in I.A.No.4 of 2023 in HMGOP No.109 of 2022 on 26.02.2024 is hereby set aside and the petitioner is directed to produce the new Demand Draft dated 12.08.2024 bearing No.020936 and the Sale Deed before the Principal District and Sessions Court, Chennai, within a period of **one week** from the date of receipt of a copy of this order. On such production, the learned Principal District and Sessions Judge, City Civil Court, Chennai, is directed to accept the same. The petitioner shall conclude the sale and produce the copy of the Sale Deed within two weeks thereafter.

8. Accordingly, this Civil Revision Petition stands allowed. No costs.

12.09.2024

Index : Yes / No
Neutral Citation : Yes / No
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C.R.P.No.3232 of 2024

Note : Issue order copy on 18.09.2024.

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To

The Principal District and Sessions Judge,
City Civil Court, Chennai.



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C.R.P.No.3232 of 2024

A.D.JAGADISH CHANDIRA, J.

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C.R.P.No.3232 of 2024

12.09.2024